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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

9, Wallace 187
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No. 646.

HENRY M. RECTOR, APPELLANT,

VS.

THE UNITED STATES.

FILED OCTOBER 6, 1875.

No. 692.

JOHN C. HALE, APPELLANT,

VS.

THE UNITED STATES.

FILED OCTOBER 13, 1875.

Affd
Bradley
Downs

No. 772.

WILLIAM H. GAINES AND HIS WIFE, MARIA, FORMERLY MARIA BELDING, ALBERT BELDING, HENRY BELDING, AND GEORGE BELDING, HEIRS AT LAW OF LUDOVICUS BELDING, DECEASED, APPELLANTS,

VS.

THE UNITED STATES.

FILED OCTOBER 21, 1875.

APPEALS FROM THE COURT OF CLAIMS.

No. 893. John H Russell Appt
vs
The United States
Filed 6th January 1876

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1 In the court of claims, Washington, D. C.

JOHN C. HALE
against
THE UNITED STATES. } No. 6203.

Petition.—Filed July 26, 1870, *under special act of Congress of May* 31, 1870.

To the honorable Court of Claims in and for the United States of America, sitting as a court of equity.

Your petitioner, John C. Hale, a citizen of the State of Arkansas, would most respectfully represent and show to your honors:

I. That by an act passed by the Senate and House of Representatives of the United States of America in Congress assembled, which was received by the President of the United States on the 31st day of May, A. D. 1870, and by force of the Constitution (said act not having been returned within the time prescribed thereby) became a law, it was enacted, among other things, in substance that any person claiming title, either legal or equitable, to the whole or any part of the four sections of
2 land constituting what is known as the Hot Springs reservation, in Hot Spring County, in the State of Arkansas, may institute against the United States, in the Court of Claims, and prosecute to final decision, any suit that may be necessary to settle the same, with a proviso that no such suit shall be brought at any time after the expiration of ninety days, &c., a copy of which said act is herewith filed and prayed to be made part hereof.

II. Your petitioner, under the peculiar provisions of the act herein above referred to, while he denies the constitutionality of said act, is advised by counsel that it is safer for him to propound his claim against the United States Government to the land hereinafter described; petitioner at the same time insisting that the constitutionality of said act shall be passed upon by this honorable court.

III. Your petitioner therefore begs leave to bring this his suit by petition against the United States of America, in order that his title to said land may be settled. Whereupon your petitioner begs leave to show unto your honors that in the year 1808 or 1809 one John Percifull, now deceased, settled upon a tract of land designated on the maps and plats, according to public surveys of the United States lawfully made, as the southwest quarter of section 33 in T. two south, of range west of the fifth principal meridian. And your petitioner avers that said survey was made after the said settlement of the said John Percifull, and is included in the Washington land district in said State of Arkansas, and that said tract of land includes the "springs," known as the Hot Springs, in said county of Hot Spring.

3 Your petitioner further shows that said southwest quarter of section 33, in township two south, of range 19 west, &c., was, at the time aforesaid, in the Territory of Missouri, and so continued until after the 12th day of April, A. D. 1814, and that said John Percifull, from said years 1808 or 1809 up to said 12th day of April, 1812, and for years after, did reside on, inhabit, and dwell as a settler upon said tract of land; that he did cultivate a part of said tract of land during his occupation, which said occupation was continuous, uninterrupted, and adverse during the times and years aforesaid. And petitioner further states that said John Percifull did not during any of the time aforesaid

remove from the Territory of Missouri, but did continuously use, occupy, reside upon, and cultivate said tract of land hereinbefore stated, up to and long after the 12th day of April, A. D. 1814.

IV. Your petitioner further shows that on the 12th day of April, A. D. 1814, the Congress of the United States passed an act for the final adjustment of land-titles in the State of Louisiana and Territory of Missouri, which, among other things, provides in section 5th "that every person, and the legal representatives of every person, who has actually inhabited and cultivated a tract of land lying in that part of the State of Louisiana which composed the late Territory of Orleans in the Territory of Missouri, which tract is not rightfully claimed by any other person, and who shall not have removed from the said Territory, shall be entitled to the right of pre-emption in the purchase thereof under the same restrictions, conditions, provisions, and regulations in every respect as directed by the act entitled 'An act giving the right of pre-emption in the purchase of land to certain settlers in the Illinois Territory,'
4 passed February 15th, A. D. 1813," the only restriction contained therein being that no more than one quarter-section should be sold to any one individual, and that the same should be bounded by sectional or divisional lines run or to be run under the direction of the surveyor-general for the division of the public lands, and that no lands reserved from sale or directed to be sold in town lots or out lots should be sold. Said act also directed that every person claiming a preference to any tract of land by virtue thereof should make known his claims by delivering a notice, in writing, to the register of the land-office for the district in which the land may be, in which notice he shall particularly designate the quarter-section he claims, which shall be filed by the register in his office, as provided for, which said notice shall be filed at least two weeks before the time of public sales in the district where the land lies.

V. Petitioner further states and shows that at the time said Percifull first so inhabited and cultivated said land, to wit, from the said year 1808 or 1809, up to and long after said 12th day of April, 1814, there was no other claimant to said lands under any pretext whatsoever. Petitioner admits that the claim of the Quapaw Indians had not then been extinguished, and was not until the year 1818, but insists that such claims have not and cannot affect lawful claims of the citizens of the United States, and they could only hold in abeyance a right vested by solemn acts of the Government in one or more of its citizens.

VI. Petitioner further states and shows that said Percifull could not avail himself of the provisions of the act of April 12th, 1814, by
5 giving notice and perfecting his title by entry until the year A. D. 1838, because he avers that said land had not been surveyed and known by metes and bounds up to said year, but he insists that this can in no way affect the validity of his claim. Petitioner avers that the only pretended claim set up before said survey was that of one Fio, claiming under some pretended Spanish grant, which was afterwards abandoned, and said Percifull and his agents and assigns left in quiet and undisputed possession of said land and Hot Springs.

VII. Your petitioner further represents, as heretofore stated, that at the time of the passage of said act of the 12th of April, 1814, Percifull was the sole and only claimant of said Hot Springs; that it was conceded by all, and known among his neighbors as distinctly as such facts are always known in a pioneer country; that he had constructed and rented out to visitors some ten or twelve cabins, all being situate in said Hot Springs quarter-section, near said Hot Springs. And your peti-

tioner further states that he so continued to hold and possess such Hot Springs until the day of his death in 1836, except as to the claim of Fio, before the United States district court for the district of Arkansas, under act of Congress of May 26th, 1824, which was contested alone by Percifull, and so successfully that Fio afterwards abandoned and withdrew the same; all which said proceedings are now on file in the office of the Commissioner of the General Land-Office in the city of Washington, D. C., and which petitioner prays may be made part hereof by a certified copy of said proceedings and record, so soon as the same can be procured, and that the same shall be marked "Exhibit A."

VIII. Your petitioner further shows that the claim or title of
6 the Quapaw Indians was extinguished in 1818, and vested thereby absolutely in Percifull and his legal representatives the inchoate right of entry by pre-emption acquired by Percifull under his settlement and cultivation, under act 12th of April, 1814.

IX. Your petitioner further shows that after the death of said John Percifull in 1836, who died in the county of Hot Spring aforesaid, Sarah Percifull, his widow, and David Percifull, his son, who were the sole and only heirs and representatives of said Percifull, continued to occupy, use, reside on, and hold said land and improvements as the legal representatives of the said John Percifull, and that no person claimed said land or disputed their right to hold it; and that they so held uninterruptedly until the transfer of their interest, as hereinafter to be stated.

X. Petitioner further states that the south boundary of said township and subdivision was not made until the first quarter of the year 1838, when it was surveyed by your petitioner as deputy surveyor under contract of May 9th, 1837, and the plats thereof filed in the register's office at Washington, Arkansas, to which division of the public lands the said township belonged in 1838 or early in 1839.

Your petitioner further shows that after the filing as aforesaid of the maps and plats of said township, in which the said land is situate, to wit, on or about the 27th day of September, 1838, Sarah Percifull and David Percifull, as the legal representatives of the said John Percifull, deceased, more than two weeks before said land was offered for sale, (the same never having yet been offered for sale,) under the laws then in force,
asserted and gave legal notice of the claim of said John Percifull
7 to said tract of land, under the act of 1814 aforesaid, by delivering to the register of the land-office at Washington, Arkansas, their own affidavits of the fact upon which said Percifull claim is based, corroborated by the depositions of Warren Dunham, Richard Hawkins, and Silas Dodd, clearly identifying the land claimed as aforesaid, which, together with their additional testimony taken on the 22d day of July, 1838, before S. A. Emerson, a justice of the peace of said county of Hot Spring, petitioner prays to make part hereof when a duly certified copy of the same can be procured, the original being on file in the office of the Commissioner of the General Land-Office, at Washington, D. C., which when filed to be marked "Exhibit X."

XI. Your petitioner would further represent and show that upon the presentation of said notice and proof the said David and Sarah, as legal representatives of said John Percifull, in conformity to the provisions of said act of 1814, made their application to the register and receiver of the land-office at Washington, Arkansas, to enter said land, but their application was most causelessly and unjustly rejected.

And your petitioner insists that the action of said register and receiver in refusing to allow said claim or permit said entry was manifestly wrong, against equity and good conscience, and in palpable and posi-

tive violation of the rights of said David and Sarah Percifull. Petitioner avers that the only pretext offered by said register and receiver for their action was that a portion of said land had been located by New Madrid certificate No. 467, in the name of Francis Langlois, or his legal representatives; all of which will more fully appear by reference to the exhibit last referred to, containing said notice, depositions, offer to enter, and the action of the register and receiver in the premises.

8 XII. Your petitioner further shows that the proof and papers, together with the action of the register and receiver based thereon, were, at the instance of said legal representatives of John Percifull, certified and transmitted to the Commissioner of the General Land-Office some time in September, 1838, when said claim was again passed upon and by said Commissioner rejected, he holding that there was no valid claim in any person in consequence of the act of Congress of April 20, 1832, by the third section of which it is provided "that the hot springs in said Territory, (Arkansas,) together with four sections of land, including said springs, as near the center thereof as may be, shall be reserved for the future disposal of the United States, and shall not be entered, located, or appropriated for any other purpose whatever;" which rejection and the reasons petitioner insist' are wholly unjust and illegal, and tend to the manifest wrong and injury of petitioner.

XIII. Your petitioner further represents and shows that he came to the then Territory of Arkansas and settled at the Hot Springs in the year A. D. 1835; that he had ample opportunity to investigate the claim of said John Percifull, and the proof being abundant that said Percifull had, from the year 1808 or 1809, in person and by tenants, settled upon, cultivated, and held said land; that there was no other rightful claimant thereto; that said Percifull had not removed from said Territory, and that his legal representatives had a good and valid right of pre-emption to said land and springs, which dated back to the first settlement and cultivation by Percifull, and that until the Quapaw title was extinguished and the land surveyed it was impossible to

9 complete said pre-emption, did, on or about the 16th of November, 1840, with one Miles H. Woods, purchase of said Sarah and David Percifull for the sum of three thousand dollars, to be paid absolutely, and ten thousand dollars when the claim should be perfected, the west half of said section, with all the appurtenances thereto belonging, and also one half of all the lands, water benefits, and privileges that might be acquired from or granted by the Government of the United States, or that of the State or Arkansas, in consideration of said improvements and settlement right; all of which will more fully appear by reference to the agreement duly signed and acknowledged by the parties and recorded in the county of Hot Spring, in the said State of Arkansas, a copy of which is prayed may be attached hereto and become part hereof, marked "Exhibit B," when the same can be obtained, the original being held subject to the order of this court and the inspection of the parties.

Your petitioner further represents that said Sarah Percifull departed this life some time prior to 1848, leaving her surviving David Percifull, her only son and heir, and that your petitioner, on the 10th day of January, A. D. 1848, purchased for the sum of about eight thousand dollars the entire interest of said David Percifull in and to said southwest quarter of section 33, in township 2 south, of range 19 west, and directed by deed, duly acknowledged and recorded in said county of Hot Spring, that the patent for said land issue to petitioner. All of which will more fully and at large appear by a certified copy of said deed, with its in-

dorsement, prayed to be attached hereto so soon as it can be obtained and to make part hereof, the original being held subject to the order of the court and inspection of the parties.

Your petitioner further represents that all of said purchase-money has long since been paid.

10 Your petitioner further states that he has not transferred any part of said interest, except one-eighth to Henry M. Rector, of the State of Arkansas.

XIV. Your petitioner further shows that by act of Congress of the 1st of March, 1843, in the third section of said act, it was provided that every settler on the public lands south of the Arkansas River shall be entitled to the same benefits accruing under the provisions of the pre-emption act of 1848, as though they resided north of the Arkansas; which said act your petitioner avers was passed to relieve those settlers south of the Arkansas River from the objection of the Indian title which had been erroneously raised against them, and as said in report of committee recommending the above act of 1843, "that the county of Arkansas, in the Territory of Missouri, was organized in 1813," and that settlers were living there in good faith, &c., at the passage of the act of 12th April, 1814.

Your petitioner avers that said county of Arkansas, in said Territory of Missouri, was organized on the 31st day of December, 1813, and that said Hot-Springs tract of land was within the original boundary of said county.

Your petitioner further shows, that after the passage of said act of 1843, he, for himself and those claiming with him, directed a communication to the Commissioner of the General Land-Office, at Washington, D. C., for information and instructions as to when they should take proof of said pre-emption claim of John Percifull, deceased, and was informed by said Commissioner that the reservation act of 1832 prevented a pre-emption right accruing to any one; a copy of which said letters petitioner asks leave to attach hereafter, and prays that may be taken as part hereof, the same to be marked "D."

11 XV. Petitioner further states that about the 12th day 1843, and after the correspondence with said Commissioner last herein referred to, the said Sarah Percifull, in right of herself and the heirs and legal representatives of John Percifull, deceased, and for the benefit of those claiming under the pre-emption of Percifull, made her affidavit before Isaac Miller, a justice of the peace of said county of Hot Spring, in which she distinctly set forth, among other things, that for thirty years she had been a settler on the Hot Spring tract of land herein referred to; and in which she set forth the occupancy and cultivation of Percifull, of her own knowledge, early in 1814, and on information from others a cultivation and residence on said land in 1812 and 1813, and from information from said Percifull a settlement thereon as early as 1807; setting forth her intermarriage with Percifull in 1815, the holding of said land by herself, husband, and tenants up to the death of her husband, which occurred in 1836, and after that by herself and other legal repesentatives of said deceased; and that neither she or her said husband had ever claimed the right of pre-emption to any portion of the public lands, &c., &c.; which affidavit and statement was supported by the testimony of Thomas Holman, all certified to by the said justice as being worthy of credit, &c.

And your petitioner avers that said affidavit and proof were filed with the register of the land-office at Washington, Arkansas, more than two weeks before said lands were offerred at public sale, the truth being

that said lands have not to this day been so offered, because, as your petitioner supposes, of the pretended reservation of 1832, at the passage of which said act the said lands had not been surveyed.

12 Your petitioner further states that the said Sarah, upon filing said affidavit and proof as last aforesaid, for herself and said David, tendered to the receiver the sum of two hundred dollars, with all office fees, as purchase-money for said tract of land; notwithstanding which, said receiver and register refused to permit the entry of said land as applied for, against equity and good conscience, and to the manifest wrong and injury of the legal representatives of said Percifull; this on the 10th day of November, 1843.

XVI. Petitioner further shows that on the 10th day of June, 1850, he made his declaration in writing, and under oath, before Lawson Runoyn, a justice of the peace of said county of Hot Spring, and the legal representative of John Percifull and wife Sarah, deceased, in the right of himself and the said David Percifull, distinctly setting up his rights under said Percifull, his occupancy of said quarter-section on the 1st day of March, 1843, the pre-emption claim of said John Percifull, and his occupancy and cultivation prior to the 12th day of April, 1814, and his continued occupancy ever afterwards to the time of his death; which was corroborated by the affidavits of James Neal, Thomas Woodward, and John W. Fullerton, taken in due form of law before said justice on the same day, which was subsequently filed in the land-office at Washington, Arkansas, and the action of the register and receiver invoked as before; but they refused to act, and the affidavits, &c., were by them forwarded to the Commissioner of the General Land-Office, at Washington, D. C. All of which your petitioner prays may become part hereof, by a duly certified copy to be hereafter attached and marked "Exhibit F."

13 XVII. Your petitioner further shows and states that no person from the year 1808 or 1809 has had, held, possessed, or used any portion of said quarter-section, except as tenant or legal representative of said John Percifull; and that no other person has the legal or equitable right to enter said land. And your petitioner hereby expressly claims that whatever occupancy of said land may be set up should enure to the benefit of your petitioner as the legal representative of said John Percifull, and entitled, by right of pre-emption, to enter the same, because he avers that no one held, used, possessed, or occupied said lands, except as the tenant of said Percifull, up to his death, and none since except tenants or legal representatives of said Percifull.

XVIII. Your petitioner further states and shows that the occupancy, &c., of John Percifull under the law of 1814, and his compliance therewith, as well as his occupancy and settlement under the law of 1829 and 1830, and also the offer to comply by petition with the provisions of the law of 1843, based upon occupancy, &c., of petitioner as legal representative, together with all the equities of petitioner in the case, were submitted to the circuit court of Hot Spring County, in chancery, on the day of 186 , it being a court of competent jurisdiction, in the State of Arkansas, by which court the equities of petitioner, as against the Government and all others, was carefully investigated, and the whole subject, both as to law and fact, passed upon; and on said hearing, the fact of said occupancy, &c., and every material charge as herein set forth, were found in favor of petitioner, and he hereby specially pleads and sets up the same, which, if not conclusive, he re-

14 spectfully maintains is entitled to great weight before the court; a copy of which said decree, or so much thereof as petitioner

deems is material to his case, he prays to be permitted, so soon as the same can be obtained from the office of the clerk of Hot Spring County, may be attached hereto and marked "Exhibit C," and made part hereof.

And your petitioner insists that in equity and good conscience he should be permitted to use the pleadings and testimony taken in that case so far as he may deem them applicable to this proceeding, without the further time, expense, and delay of retaking the same, especially as the Government of the United States, without making itself a party to the suit, has directed, by the act of Congress first above referred to, that proceedings shall be instituted before the Court of Claims to adjust the title of said lands, thereby ousting the State courts of their jurisdiction and compelling petitioner to institute these proceedings.

XIX. Your petitioner further states and shows that under and by virtue of an act of Congress approved 26th of May, 1824, being an act concerning pre-emption rights in Arkansas Territory, H. Boswell, register of the land district of Lawrence, at Batesville, Arkansas, on the 20th day of January, A. D. 1825, issued to Townsend Dickerson a certificate No. 69, commonly called a Cherokee pre-emption, in which, according to the provisions of said act, the said Boswell certified that the said Townsend Dickinson, as assignee of Jane Neal, had produced and proved to the register and receiver of public moneys sufficient to entitle him to a right of pre-emption on the land ceeded by the United States to the Cherokee Indians, which was of record in said office, duly signed by said Boswell as such register. And your petitioner avers that said certificate was on the 26th day of July, 1825, duly and legally as-
15 signed to John Nicks by said Dickinson, and afterward, April 11, 1835, to said David Thompson, by Sarah P. Nicks, administratrix of said John Nicks, who had departed this life; and by said Thompson, on the 29th day of said February, 1836, to James Dawson—all which said assignments were for a valuable consideration, and legally executed. And your petitioner further shows that James L. Dawson transferred said certificate on the 15th day of January, 1842, by deed of trust duly acknowledged and recorded in the recorder's office of land-titles, Washington, D. C., to Richard Wallach, who made and executed an instrument of writing reciting the said deed of trust, and setting forth that pursuant thereto he, the said Richard Wallach, on the 20th day of January, 1843, offered said certificate at public sale in the city of Washington, D. C., and Frank Taylor became the purchaser thereof, and paid the purchase-money; by which said instrument he, the said Richard Wallach, by virtue of said deed of trust, under the sale last aforesaid, transferred to said Frank Taylor all the title and interest of James L. Dawson, or of himself, as trustee, which said instrument was duly attested and acknowledged. And said Frank Taylor, on the 17th day of January, 1843, constituted and appointed William E. Woodruff, of Little Rock, Arkansas, his attorney in fact to sell for him any certificate of rights of pre-emption in lands ceded by the United States to the Cherokee Indians, some issued in 1824 and some in 1825, which said power of attorney was duly executed and acknowledged, and delivered to the said William E. Woodruff, and the said William E. Woodruff, as such attorney, in the name of his principal, Frank Taylor, on the day of , 1850, transferred said certificate to your petitioner, who thereby became the legal holder and owner thereof. And your petitioner avers that under the said act of Congress, and of the supplementary act of 1843, allowing said certificate to be located upon any of the public
16 lands in the United States, and provided that all Cherokee pre-emptions which shall have or may be located on any of the sur-

veyed lands of the United States south of the base-line in Arkansas, and belonging to the United States, shall be confirmed and patents issued thereon as in other cases, your petitioner became and was entitled to locate and enter said tract of land by virtue of said Cherokee pre-emption certificate.

XX. Your petitioner further represents that on the day of October, 1850, he and those under whom he claims, having occupied said quarter-section continuously ever since 1808 or 1809, and having in 1841 valuable improvements thereon, some of which were erected prior to the year 1824, and prior to the act of Congress 26th May, 1824, by those under whom petitioner claims, for the purpose of securing said improvements gave notice in writing, reciting said acts of Congress, and the issuing, &c., of said certificate number 69, reciting, also, the assignments hereinbefore referred to, applied and claimed the right, as such assignee, to enter and locate, by virtue of said pre-emption certificate, the said southwest quarter of section 33, township 2 south, of range 19 west, and tendered the full amount of purchase-money therefor, which application was, by the register and receiver of the land-offices at Washington, Arkansas, rejected, on the ground that said land was reserved from sale by order of the President, under act of Congress of 20th April, 1832; a true copy of which said pre-emption certificate and assignment, application to locate, and rejection by said register and receiver, petitioner begs leave in due time to file herewith, and prays that the same may be taken as part hereof, marked "Exhibit H."

17 XXI. Petitioner further states that he claims, by virtue of another application to locate Cherokee pre-emption number 55, dated Lawrence district, land-office at Batesville, register's office, December 18th, 1824, in the now State of Arkansas, the northwest quarter of section four, township 3 south, of range 19 west.

Your petitioner avers that said certificate was issued to Townsend Dickerson, and by a regular chain of transfers, or assignments, became the property of petitioner; all of which said transfers or assignments will more particularly and at large appear by reference to Exhibit W, filed herewith and prayed to be made part hereof, the original being held subject to inspection and order of this court.

Petitioner further shows that on the 16th October, 1850, (your petitioner before that time having purchased the improvements on said land, a duly certified copy of the deed from Lawson Runyon for the same being prayed to be made part hereof, so soon as the same can be obtained from the county of Hot Spring, and marked "Exhibit O,") gave notice to the register of the land-office at Washington, Arkansas, and made his application at said office to enter the land last above mentioned by virtue of said Cherokee pre-emption certificate, (and the purchase of the improvements aforesaid,) under the act of Congress of May 20th, 1824, concerning pre-emption rights in the Territory of Arkansas, whereby your petitioner, as assignee as aforesaid, under the provisions of the act of 12th April, 1814, as explained and amended by fourth section of act of Congress of 1843, being an act for the final adjustment of land-titles in the State of Louisiana and Territory of Missouri, was entitled to enter said lands. And your petitioner avers that, notwithstanding said application and notice, and the tender of the purchase

18 money and office fees for said entry, *that* the same was rejected by the register and receiver upon the same erroneous construction of the reservation act of 1832, a copy of which proceedings are contained in said Exhibit H, herewith filed and prayed to be made part hereof. And your petitioner avers that the action of said register and

receiver both in rejecting said offer to enter certificate number 69 and 55 was unjust, and tended to the manifest wrong and injury of petitioner in the premises.

XXII. Petitioner further states and shows that he was one of the pioneers in the settlement of Arkansas, was the first person whose survey of this immediate section of country was accepted by the Government, and that he is now and has always been loyal to said Government; that in consequence of exposure in early service as a pioneer surveyor of the public lands of Arkansas, he was stricken down by disease, and has not been able to walk for nearly twenty-five years, during all which time, the Government, by its officials, in one shape or another, have refused to do justice to petitioner, and permit him to perfect his title to lands which, in equity and good conscience, are so justly his own. He avers that, notwithstanding the patient endurance of wrong for years in this respect, he is still loyal and true to the Government; that to-day he is doing what he can with the loyal element in his State to build up schools, foster public enterprises, and bring about a return of complete peace and prosperity to his State and community.

Petitioner further shows that the sums he paid for the Percifull improvements and pre-emption right were large at that day, and that under the faith of the correctness and justness of this title, and that the
19 Federal Government desired to deal equitably and fairly with all its citizens, *that* he has erected valuable improvements, worth in all, say, fifty thousand dollars; and in the event of his claim being passed upon adversely, he prays that an account may be taken and he paid the full value of his said improvements.

XXIII. Your petitioner further states that, being fully persuaded that his right of pre-emption attached under the settlement and culture of Percifull, by virtue of the act of 1814, and that his equities gained strength by the subsequent acts of 1824, 1829, 1830, and of 1843; and that no reservation could lawfully be made adverse to a right once attached, is, nevertheless, willing of his own accord and free volition to set aside five or ten acres of land for the use of Government, contiguous to said springs, upon which may be erected, for humane and charitable purposes, such public buildings as may be deemed advisable. And petitioner believes this is more than the Government, under the law, could expect, and all that it could reasonably ask.

Petitioner further states and shows that all persons by and through whom he claims as assignee and legal representative, and the original and every prior owner of the claim in controversy by and through whom he claims, have borne true allegiance to the Government of the United States, and neither petitioner nor they have voluntarily aided, abetted, or given encouragement to the rebellion against the said Government.

Petitioner is not fully advised as to whether other claims will be set up to the lands in controversy claiming to be adverse to or having superior equities to petitioner; but should the same be done, he asks time to answer thereto.

The premises considered, your petitioner prays proper process herein, that the defendant may be required to answer this petition fully;
20 that said lands may be decreed to petitioner, and patent issue therefor; and for such other and further relief as may to this honorable court seem meet and proper in the premises. Petitioner will ever pray, &c.

JOHN C. HALE,
By E. W. GANTT,
Solicitor for Claimant.

DISTRICT OF COLUMBIA,
County of Washington:

I, John C. Hale, do solemnly swear that I believe the facts stated in the above and foregoing petition are true; that I have not transferred my interest in said claim, or any part thereof, except as in said petition stated; and that I am justly entitled to the relief herein prayed for to the best of my knowledge and belief: so help me God.

J. C. HALE.

Sworn to and subscribed before me this 20th July, 1870.

[SEAL.] FRED'K K. KOONES,
Notary Public.

21 *Exhibit first referred to.*

[Public—No. 80.]

An act in relation to the Hot Springs reservation in Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person claiming title, either legal or equitable, to the whole or any part of the four sections of land constituting what is known as the Hot Springs reservation, in Hot Springs County, in the State of Arkansas, may institute against the United States in the Court of Claims, and prosecute to final decision, any suit that may be necessary to settle the same: Provided, That no such suits shall be brought at any time after the expiration of ninety days from the passage of this act, and all claims to any part of said reservation upon which suit shall not be brought under the provisions of this act within that time shall be forever barred.

SEC. 2. And be it further enacted, That all such suits shall be by petition in the nature of a bill in equity, and shall be conducted and determined in all respects, except as herein otherwise provided, according to the rules and principles of equity practice and jurisprudence in the other courts of the United States; and for the purposes of this act the Court of Claims is hereby invested with the jurisdiction and powers exercised by courts of equity so far as may be necessary to give full relief in any suit which may be instituted under the provisions of this act.

SEC. 3. And be it further enacted, That notice of every suit authorized by this act shall be executed by the delivery of a true copy thereof with a copy of the petition to the Attorney-General, whose duty it shall be, for and in behalf of the United States, to demur to or answer the petition therein, within thirty days after the service of such process upon him, unless the court shall, for good cause shown, grant further time for filing the same.

SEC. 4. And be it further enacted, That if two or more parties
22 claiming the same lands under different rights shall institute separate suits under the provisions of this act, such suits shall be consolidated and tried together, and the court shall determine the question of title and grant all proper relief as between the respective claimants, as well as between each of them and the United States.

SEC. 5. And be it further enacted, That if, upon the final hearing of any cause provided for in this act, the court shall decide in favor of the United States, it shall order such lands into the possession of a receiver to be appointed by the court, who shall take charge of and rent out the

same for the United States, until Congress shall by law direct how the same shall be disposed of, which said receiver shall execute a sufficient bond to be approved by the court, conditioned for the faithful performance of his duties as such, render a strict account of the manner in which he shall have discharged said duties, and of all moneys received by him as a receiver as aforesaid, which shall be by said court approved or rejected, accordingly as it may be found correct or not, and pay such moneys into the Treasury of the United States; and he shall receive such reasonable compensation for his services as said court may allow, and in case of a failure of said receiver to discharge any duty devolving upon him as such, the court shall have power to enforce the performance of the same by rule and attachment. But if the court shall decide in favor of any claimant, both as against the United States and other claimants, it shall so decree, and proceed by proper process to put such successful claimant in possession of such portion thereof as he may be thus found to be entitled to, and upon the filing of a certified copy of such decree with the Secretary of the Interior, he shall cause a patent to be issued to the party in whose favor such decree shall be rendered for the lands therein adjudged to him: Provided, That either party may, within ninety days after the rendition of any final judgment or decree in any suit authorized by this act, carry such suit by appeal to the Supreme Court of the United States, which court is hereby vested with full jurisdiction to hear and determine the same on such appeal, in the same manner and with the same effect as in cases of appeal in equity causes from the circuit courts of the United States: And provided further, That in case the judgment or decree of the Court of Claims
23 in any such suit shall be adverse to the United States, the Attorney-General shall prosecute such appeal within the time above prescribed; and the taking of an appeal from any such judgment or decree shall operate as a supersedeas thereof until the final hearing and judgment of the Supreme Court thereon.

J. G. BLAINE,
Speaker of the House of Representatives.
SCHUYLER COLFAX,
Vice-President of the United States and President of the Senate.

Received by the President May 31, 1870.

NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.

24 In the Court of Claims of the United States, December term, 1870.

JOHN C. HALE
vs.
THE UNITED STATES. } No. 6203.

Answer of the United States.—Filed June 17, 1871.

The Attorney-General, for and in behalf of the United States, further answering, by leave of court, the petition therein, saith that he does

not know nor has he been informed, save by the claimant's petition, of the several matters or things therein contained, and that he therefore neither admits nor denies the same, but leaves said claimant to prove said matters as he may be advised. And he further denies that the claimant, by reason of any said matters, has any title, legal or equitable, to the whole or any part of the land claimed in said petition, or to any relief in said premises at the hand of your honorable court. The title to said land he avers, notwithstanding all said matters, to be and remain in the United States, in whose favor he claims the judg-
25 ment of your honorable court, and further proceedings thereunder as the law in such case directs.

THOMAS H. TALBOT.
Assistant Attorney-General.

26 In the Court of Claims of the United States.

HENRY M. RECTOR, CLAIMANT, *vs.* THE UNITED STATES OF AMERICA. } Claim to two hundred arpents of land, including the Hot Spring of the Ouachita.

Petition.

(Endorsement:) 6245. Henry M. Rector vs. The United States. Filed August 30, 1870. Albert Pike, R. W. Johnson, A. H. Garland, attorneys.

27 In the Court of Claims of the United States.

HENRY M. RECTOR, PETITIONER, *vs.* UNITED STATES OF AMERICA.

Henry M. Rector, who is the only son and sole heir at law of Elias Rector, late of the State of Missouri, deceased, and himself a citizen of the United States of America by birth, and of the State of Arkansas, prefers, by this his suit and petition, in the nature of a suit in equity, to the honorable the Court of Claims of the United States of America, his claim as proprietor, by grant from the United States, to two hundered arpents or one hundred and seventy and fourteen hundredths acres of land, part of the Hot Springs reservation, in the county of Hot Springs, in the State of Arkansas, as heretofore surveyed, in the form of a square, and including the Hot Springs of the Ouachita, which he claims as such sole heir at law of Elias Rector, deceased, who was assignee of Samuel Hammond, who was assignee of Francis Langlois; the honorable the Court of Claims having jurisdiction hereof under the act of the Congress of the United States which became a law on the twelfth day of June, A. D. 1870, entitled "An act in relation to the Hot Springs reservation in Arkansas."

In support and maintainance of which claim to the said tract of land, as bounded and described in and by the surveys hereinafter mentioned and to be herewith exhibited, the petitioner doth allege, aver, and state the facts following, that is to say:

That in the year 1814, the county of New Madrid, in the
28 Territory of Missouri, and the country adjacent thereto, was shaken by a great earthquake, whereby large bodies of lands in the said county were sunken to a lower level, and others torn and shat-

tered, whereby large quantities of land therein were rendered wholly worthless, and others greatly and materially injured.

That one Francis Langlois was, at the time of the said earthquake, the proprietor in fee by confirmation of a tract of two hundred arpents of land in the said county of New Madrid, which was materially injured by the said earthquake.

Whereby, on the seventeenth day of February, in the year of our Lord one thousand eight hundred and fifteen, the said Francis Langlois became authorized, under the act of the Congress of the United States that day enacted, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquake," to locate the like quantity of land on any of the public lands of that Territory, the sale of which, at the time of the location, might be authorized by law; and upon its being made to appear to the recorder of land-titles of the Territory of Missouri, by the oath or affirmation of a competent witness or witnesses, that he was so entitled to a tract of two hundred arpents of land under the provisions of that act, it was the duty of the said recorder to issue unto him a certificate thereof; upon which certificate being issued, and the location made, the land upon which his said claim and right of selection might be located would become, by title in fee absolute, the property of the said Francis Langlois.

Which location was by the said act defined to be, and was, a survey made of such lands as the claimant might select and apply to have surveyed, to be made by the principal deputy surveyor for said Territory, or under his direction; upon which survey being made, the lands surveyed were severed from the public domain, and vested in the said claimant.

And upon such survey being made, and returned to the said principal deputy surveyor, when made by a deputy surveyor other than himself, it was made his duty to return a plat of the location so made to the said recorder of land-titles, (at St. Louis,) together with a notice in writing designating the tract so located, and the name of the claimant.

29 And it was thereupon made the duty of the said recorder of land-titles to cause the said notice and plat to be recorded in his office, the fee for all the services of the recorder and the compensation of the surveyor to be paid by the said Francis Langlois.

And it was made the duty of the said recorder of land-titles to transmit a report of such claims allowed, and locations made, under the said act, to the Commissioner of the General Land-Office; and to furnish the claimants with certificate, stating the circumstances of the case, and that the party was entitled to a patent; and upon such certificate of the said recorder, patent should issue as in other cases, unless in section three of the said act the word "and," in the fourth line, as printed, was written and intended to be, and should be, "who;" in which case, the said act intended to require the Commissioner of the General Land-Office, upon receipt of the report of the recorder, to deliver to the claimant a certificate, stating the circumstances of the case, and that he was entitled to a patent, which certificate being filed with the recorder within twelve months thereafter, he should issue a certificate in favor of the party, which should entitle him to a patent.

That by the act of Congress of January 28, 1806, "extending the powers of the surveyor-general to the Territory of Louisiana," all plats of surveys that pertained to any office whatever, established or authorized for the purpose of executing or recording surveys of lands within

that Territory, were required to be delivered to the principal deputy surveyor of that Territory; and it was enacted that no plat of survey should be admitted as evidence in any court of justice unless certified by him to be a true copy of the record in his office.

And by the act of Congress of April 29, 1816, to provide for the appointment of a surveyor of the public lands in the Territories of Illinois and Missouri, the surveyor-general so provided for was required to transmit to the registers of the land-offices within the said Territories general and particular plats of all the lands surveyed, or to be surveyed, and to forward copies of all plats to the Commissioner of the General Land-Office; and all the plats of surveys, and all other papers and documents pertaining to any office theretofore established or authorized for the purpose of executing or recording surveys of lands within the said Territories, were to be delivered to the surveyor by that act authorized to be appointed, and any plat of survey duly certified by him was
30 made evidence in any court of the United States or of the said Territories.

The petitioner further shows that on the tenth day of November, A. D. 1818, the said Francis Langlois did, in the presence of two subscribing witnesses, at the said county of New Madrid, sign and seal and unto one Joseph Story deliver his certain instrument in writing of that date, whereby, for good causes and considerations him thereunto moving, he made, ordained, constituted, and appointed the said Joseph Story, of the said county and Territory, his true and lawful agent and attorney in fact irrevocable, for the purposes therein declared, to wit: That whereas the said act of Congress of the 17th of February, 1815, for the relief of the inhabitants of the county of New Madrid had been enacted, and he, the said Langlois, being one of those entitled to relief under the provisions of that act: Therefore, he had given, and thereby did give, full power and authority to his said attorney to locate on any of said public lands in said Territory of Missouri any quantity of land that he, the said Langlois, might be entitled to by virtue of the said act of Congress, for his own proper use, benefit, and behoof, and that of his, the said Story's, heirs and assigns forever, and to sell, convey, and transfer the same absolutely to any person or persons whatsoever, for such price and consideration as he might think fit; also, with power and authority to his said attorney to sell and convey unto the United States, or any officer under the Government who received the same, his injured land, lying and being situate in the said county, containing two hundred arpents, being a tract of land confirmed by the then late board of commissioners of land-claims for the aforesaid Territory to the said Langlois, on Bayou St. John; and generally in the premises to do, execute, and perform all and whatsoever should be requisite and necessary, in as full and ample a manner as the said Langlois himself might or could do if personally present; and, also, with power of substitution; thereby ratifying and confirming all and whatsoever his said attorney should lawfully do, or cause to be done, by virtue of the said power.

The execution of which instrument was duly proven, in accordance with the statutes of the said Territory, by one of the subscribing witnesses thereto, on the thirteenth day of November, 1818, before the clerk of the southern circuit court, within and for the said county
31 of New Madrid, and the said probate duly attested and certified by the clerk of that court; and when the said claim was proven, as hereinafter mentioned, the said power of attorney was filed in the office of the recorder of land-titles at St. Louis, and there remained.

And on the twenty-sixth day of November, in the same year, the said Francis Langlois, by his said attorney in fact, Joseph Story, did, by the oath or affirmation of a competent witness or witnesses, prove and make it appear to the recorder of land-titles aforesaid that he was entitled to a tract of two hundred arpents of land, under the provisions of the said act of Congress of the 17th of February, 1815; and thereupon the said recorder of land-titles, Frederick Bates, did on that day grant and issue unto the said Francis Langlois, and to his said attorney, Joseph Story, did deliver, his certificate (No. 467) of that date, whereby he certified that, upon proper proof made to him, it appeared that under said act of Congress the said Francis Langlois or his legal representatives were entitled to locate two hundred arpents of land on any of the public lands of the Territory of Missouri the sale of which was authorized by law.

And inasmuch as the said act of Congress of 17th Feb'uary, 1815, did provide that in every case where a location should be made according to its provisions the title of the claimant to the land injured should revert to and become absolutely vested in the United States, the said recorder of land-titles did, at the same time and as a condition-precedent to the granting his said certificate, require a release and relinquishment to the United States by and from the said Langlois of his said injured tract of two hundred arpents of land on Bayou St. John, in said county of New Madrid; and the said Francis Langlois did accordingly, by his said attorney, Joseph Story, on the same day, by deed of that date, release, relinquish, and convey to the United States the said injured tract of land, receiving in exchange therefor the said certificate of his right to select and locate in lieu of said tract an equal quantity of land elsewhere.

And on the fourth day of January, A. D. 1819, the said Francis Langlois, by the said Joseph Story, his assignee and attorney in fact, thereunto empowered as aforesaid, sold the said certificate and claim and said right to locate the said quantity of land to one Samuel Hammond for the sum of six hundred and forty dollars, which was then paid; and the said assignee and attorney in fact did then, for the
32 said Langlois and for himself, by writing endorsed upon or annexed to the said certificate, assign, transfer, and set over all the interest of himself and of the said Langlois to or in the said certificate, and all the benefits and rights to be derived therefrom, to said Samuel Hammond, his heirs and assigns, acknowledging thereby to have received the said sum of six hundred and forty dollars in full consideration for the premises therein mentioned.

Of all which—the copies of the said certificate of the said recorder of land-titles; of the said transfer and assignment thereof, and of the said power of attorney, and the copy of the portion relating to the said claim, of the list of relinquishment of such injured lands, kept by the said recorder—*all which* are now of the files of the General Land-Office, make full and conclusive proof.

And the said Samuel Hammond, soon after his said purchase, sold to your petitioner's father, Elias Rector, an equal and undivided moiety of the said claim and right to locate, at and for the price and consideration of six hundred dollars; but whether any written agreement between them was then made or any conveyance executed by the said Hammond, your petitioner does not know, no other conveyance from the said Hammond ever having come to his possession or knowledge than that which will be hereinafter mentioned.

that Territory, were required to be delivered to the principal deputy surveyor of that Territory; and it was enacted that no plat of survey should be admitted as evidence in any court of justice unless certified by him to be a true copy of the record in his office.

And by the act of Congress of April 29, 1816, to provide for the appointment of a surveyor of the public lands in the Territories of Illinois and Missouri, the surveyor-general so provided for was required to transmit to the registers of the land-offices within the said Territories general and particular plats of all the lands surveyed, or to be surveyed, and to forward copies of all plats to the Commissioner of the General Land-Office; and all the plats of surveys, and all other papers and documents pertaining to any office theretofore established or authorized for the purpose of executing or recording surveys of lands within the said Territories, were to be delivered to the surveyor by that act authorized to be appointed, and any plat of survey duly certified by him was
30 made evidence in any court of the United States or of the said Territories.

The petitioner further shows that on the tenth day of November, A. D. 1818, the said Francis Langlois did, in the presence of two subscribing witnesses, at the said county of New Madrid, sign and seal and unto one Joseph Story deliver his certain instrument in writing of that date, whereby, for good causes and considerations him thereunto moving, he made, ordained, constituted, and appointed the said Joseph Story, of the said county and Territory, his true and lawful agent and attorney in fact irrevocable, for the purposes therein declared, to wit: That whereas the said act of Congress of the 17th of February, 1815, for the relief of the inhabitants of the county of New Madrid had been enacted, and he, the said Langlois, being one of those entitled to relief under the provisions of that act: Therefore, he had given, and thereby did give, full power and authority to his said attorney to locate on any of said public lands in said Territory of Missouri any quantity of land that he, the said Langlois, might be entitled to by virtue of the said act of Congress, for his own proper use, benefit, and behoof, and that of his, the said Story's, heirs and assigns forever, and to sell, convey, and transfer the same absolutely to any person or persons whatsoever, for such price and consideration as he might think fit; also, with power and authority to his said attorney to sell and convey unto the United States, or any officer under the Government who received the same, his injured land, lying and being situate in the said county, containing two hundred arpents, being a tract of land confirmed by the then late board of commissioners of land-claims for the aforesaid Territory to the said Langlois, on Bayou St. John; and generally in the premises to do, execute, and perform all and whatsoever should be requisite and necessary, in as full and ample a manner as the said Langlois himself might or could do if personally present; and, also, with power of substitution; thereby ratifying and confirming all and whatsoever his said attorney should lawfully do, or cause to be done, by virtue of the said power.

The execution of which instrument was duly proven, in accordance with the statutes of the said Territory, by one of the subscribing witnesses thereto, on the thirteenth day of November, 1818, before the clerk of the southern circuit court, within and for the said county
31 of New Madrid, and the said probate duly attested and certified by the clerk of that court; and when the said claim was proven, as hereinafter mentioned, the said power of attorney was filed in the office of the recorder of land-titles at St. Louis, and there remained.

And on the twenty-sixth day of November, in the same year, the said Francis Langlois, by his said attorney in fact, Joseph Story, did, by the oath or affirmation of a competent witness or witnesses, prove and make it appear to the recorder of land-titles aforesaid that he was entitled to a tract of two hundred arpents of land, under the provisions of the said act of Congress of the 17th of February, 1815; and thereupon the said recorder of land-titles, Frederick Bates, did on that day grant and issue unto the said Francis Langlois, and to his said attorney, Joseph Story, did deliver, his certificate (No. 467) of that date, whereby he certified that, upon proper proof made to him, it appeared that under said act of Congress the said Francis Langlois or his legal representatives were entitled to locate two hundred arpents of land on any of the public lands of the Territory of Missouri the sale of which was authorized by law.

And inasmuch as the said act of Congress of 17th Feb'uary, 1815, did provide that in every case where a location should be made according to its provisions the title of the claimant to the land injured should revert to and become absolutely vested in the United States, the said recorder of land-titles did, at the same time and as a condition-precedent to the granting his said certificate, require a release and relinquishment to the United States by and from the said Langlois of his said injured tract of two hundred arpents of land on Bayou St. John, in said county of New Madrid; and the said Francis Langlois did accordingly, by his said attorney, Joseph Story, on the same day, by deed of that date, release, relinquish, and convey to the United States the said injured tract of land, receiving in exchange therefor the said certificate of his right to select and locate in lieu of said tract an equal quantity of land elsewhere.

And on the fourth day of January, A. D. 1819, the said Francis Langlois, by the said Joseph Story, his assignee and attorney in fact, thereunto empowered as aforesaid, sold the said certificate and claim and said right to locate the said quantity of land to one Samuel Hammond for the sum of six hundred and forty dollars, which was then paid; and the said assignee and attorney in fact did then, for the
32 said Langlois and for himself, by writing endorsed upon or annexed to the said certificate, assign, transfer, and set over all the interest of himself and of the said Langlois to or in the said certificate, and all the benefits and rights to be derived therefrom, to said Samuel Hammond, his heirs and assigns, acknowledging thereby to have received the said sum of six hundred and forty dollars in full consideration for the premises therein mentioned.

Of all which—the copies of the said certificate of the said recorder of land-titles; of the said transfer and assignment thereof, and of the said power of attorney, and the copy of the portion relating to the said claim, of the list of relinquishment of such injured lands, kept by the said recorder—*all which* are now of the files of the General Land-Office, make full and conclusive proof.

And the said Samuel Hammond, soon after his said purchase, sold to your petitioner's father, Elias Rector, an equal and undivided moiety of the said claim and right to locate, at and for the price and consideration of six hundred dollars; but whether any written agreement between them was then made or any conveyance executed by the said Hammond, your petitioner does not know, no other conveyance from the said Hammond ever having come to his possession or knowledge than that which will be hereinafter mentioned.

Your petitioner further represents:

That on the twenty seventh day of January, 1819, the said Samuel Hammond and Elias Rector made formal application in writing to William Rector, then the surveyor or surveyor-general of the public lands for the State of Illinois and Territory of Missouri, for the entry or donation of two hundred arpents of land, to satisfy the said certificate No. 467, "to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, and to include the Hot Springs, so called, upon the waters of Ouachita River, south of the river Arkansas," the said springs to be as near the centre of the square as circumstances would admit; and they thereby solicited an order of survey, and directions agreeably to the said notice; the springs so to be included being those generally known as the largest and most resorted to upon that river.

Which notice of selection and location and application for a survey being on that day filed in the office of the said surveyor-general, he did thereupon grant and issue an order of survey, in accordance with
33 the said notice and application, directed to James S. Conway, who was then a deputy surveyor in the service and employ of the United States, duly qualified as such, and who, being at that time in St. Louis, was willing to make the said survey, being paid therefor (as was the rule in all cases of such surveys) by the said Samuel Hammond and Elias Rector, the said surveyor-general requiring and directing him to survey the tract of land applied for in accordance with the application, describing it as the land due upon certificate No. 467.

That the said James S. Conway, deputy surveyor, proceeded, upon his return to the Territory of Arkansas, to make the said survey, and did survey and mark off the land so selected, in the manner specified in the application; that is, in a square form, including the said Hot Springs, the square so surveyed and laid off containing one hundred and seventy and fourteen-hundre'ths acres, which survey was made thus, that is to say: "Beginning at a post, from which a pine ten inches in diameter (marked thus: H & R) bore south 47° east 8 links, thence south 7 chains, a creek, 15 links wide east, at 41 chains 25 links set a post from which a pine 15 inches in diameter bore north 47½° east 23 links; thence east 19 chains 25 links to Hot Springs Creek 25 links wide runs south, at 41 chains 25 links set a post from which a post-oak 10 inches in diameter bore south 62° west 16 links; thence west 41 chains 25 links to the beginning;" the bearing trees and others being marked in the mode usual with surveyors of the public lands, distinctly and legibly, so that the lines so run should be easily ascertainable, and they are in part ascertainable still.

And after so making the said survey, the said deputy surveyor, on the sixteenth day of July, 1820, made out a plat and descriptive statement of the same, the same being numbered "survey No. 2903, certificate No. 467," the statement giving the lines, courses, and distances, and the bearings, as above, and the plat showing the length and direction of the lines of each side of the square, the said creeks and their courses, the variation of the compass, and the locality of the springs, and having upon it the description, "No. 467, Francis Langlois, 200 arpents, 170.14 acres."

Which plat and notes of survey or descriptive statement of said tract, location, and survey were made out by the said James S. Conway, deputy surveyor, in triplicate, and each of these being in his own handwriting, and signed by him as deputy surveyor; one whereof he
34 deposited on the said 16th day of July, 1820, or immediately

thereafter, in the office of the said surveyor-general at St. Louis, and the other two he delivered to the said Samuel Hammond and Elias Rector; the said plat and survey being numbered 2903, on certificate No. 467; and thereupon the said plat and notes of survey, or protocol and return of survey, was received by the said surveyor-general, and by his order entered and placed upon the register of surveys of private claims in his said office; and the said register mentioning said survey, by number, in the list of surveys, and two of the said originals or protocols of the said plat and report of survey are still in existence, and furnish incontrovertible evidence of the making and return of the said survey; and a copy of the said register, and one of the said originals or protocols of the said plat and statement of survey, are upon the files of the General Land-Office.

And on the 19th day of February, 1819, the said Samuel Hammond and Eliza A. Hammond, his wife, made, signed, sealed, and delivered, in the presence of two subscribing witnesses, their deed of conveyance, by which, reciting the purchase by the said Samuel Hammond from the said Joseph Story, as attorney in fact of the said Francis Langlois, of the New Madrid certificate, dated and numbered as aforesaid, and conveyance by deed of the said Francis Langlois, by the said Joseph Story, as his attorney in fact, of date the 4th day of January, 1819, and the location of the said certificate by the said Samuel Hammond, on the Hot Springs, on the Washitaw, in the county of Arkansas, in the said Territory; therefore, the said Samuel Hammond and Eliza A., his wife, for and in consideration of the sum of six hundred dollars by the said Elias Rector to the said Samuel Hammond in hand paid, and the receipt whereof was thereby acknowledged, did grant, bargain, sell, alien, convey, and confirm unto the said Elias Rector one undivided moiety of the said New Madrid certificate, and the rights and interest accruing or arising from the same, and also one undivided moiety of the lands so located, or if the said location should be removed by the parties thereto, the one undivided moiety of such lands as might be thereafter located in virtue of the said certificate; to have and to hold the same to the said Elias Rector, his heirs and assigns, forever, with covenant of legal and equitable title to the said certificate, or the interest and property in the same.

35 Which conveyance was duly acknowledged by the said Samuel and Eliza A. Hammond, at the county of St. Louis, in the Territory of Missouri, on the second day of March, 1819, before the deputy clerk of the circuit court of said county, and on the 18th day of March, 1820, before a notary public of said county, and the same was duly recorded in the county of Clark, in the Territory of Arkansas, (in which county the said land lay,) on the 19th day of May, 1820, and in the county of Hot Spring on the 12th day of March, A. D. 1838; and the original, with the certificates of acknowledgment and record, is in the possession of your petitioner.

And on the 12th day of May, 1819, the said François Langlois and Barbara, his wife, by deed of that date, for the consideration of two hundred and sixty dollars, which they acknowledged to have been received from the said Joseph Story, bargained, sold, and conveyed to him, his heirs and assigns, with general warranty against all claims, the tract of land of two hundred arpents on Bayou St. John, being the same tract of land mentioned in said certificate No. 467 of the recorder of land-titles, as materially injured by earthquakes, and all their rights, privileges, and advantages arising therefrom under the said act of Congress of February 17, 1815; which deed was duly acknowledged before

a justice of the peace of said county of New Madrid, by said Langlois and wife, on the day of its date, and was then or thereafter duly recorded in that county.

The original of which conveyance has never been in the possession of your petitioner, nor does he know whether it was ever in the possession of his father; but he has made diligent search and enquiry therefor, and, failing to find it, believes that it has been lost or destroyed by time or accident; but he will prove the same by a copy thereof, duly authenticated, from the records of deeds and mortgages of the said county of New Madrid.

And on the 24th day of February, 1821, to perfect their title, the said Samuel Hammond and Elias Rector took from the said Joseph Story a conveyance, on that day signed, sealed, and to them delivered, whereby, for and in consideration of the sum of one dollar to him in hand paid, the said Joseph Story granted, bargained, sold, and conveyed to them his right, title, and interest in the said certificate, issued and numbered as aforesaid, to have and to hold the same to the said Samuel
36 Hammond and Elias Rector, their heirs and assigns, with covenant to warrant and forever defend to them, their heirs and assigns, the said certificate against the claim or claims of any person or persons whatsoever; which conveyance was, on the same, duly acknowledged by the said Joseph Story before a notary public of the county of St. Louis, and was duly recorded in the said county of Clark on the 22d day of July, 1821, and in said county of Hot Spring on the 12th day of March, A. D. 1838, and the original, with the certificates of acknowledgement and record, is in the possession of your petitioner.

Your petitioner further states that after the making of the said last-mentioned deed, but at what precise time your petitioner has never known or been informed, the said Samuel Hammond sold and ceded all his interest in the said claim and location to the said Elias Rector, by what manner of instrument your petitioner does not know, the same, of whatever character it was, having been lost or destroyed by time or accident, or at least never having come to your petitioner's hands, nor does he know for what price and consideration the said Hammond sold his said interest.

But your petitioner avers that since the said Samuel Hammond so sold to the said Elias Rector the half interest that he had retained in the said claim, neither he, nor any one claiming under him, or in his right, by devise, descent, or otherwise howsoever, has ever claimed, set up, preferred, put forward, or pretended to, any right, title, or interest in the said claim, or in the lands so surveyed as aforesaid, during the long term of nearly or quite fifty years; nor ever in any way intermeddled with or sought to control the same, or concerned himself or herself in anywise about the same; nor ever proposed or proffered to assist or be known in the prosecution of the said claim in the General Land-Office and Department of the Interior, commenced by your petitioner in his own exclusive right in the month of June, 1838, more than thirty years ago, and earnestly and vigilantly continued by him at great cost and expense for nearly twenty years; nor ever proposed or offered to assist him in defending his possession of the said springs in any one of the many suits brought in the courts of the State of Arkansas in regard thereto, or to help him to bear the expense of any portion of such litigation and maintianance of right.

Nor since the day of the making of the said transfer of the said claim by the said Joseph Story, as attorney in fact for the said Francis Lang-
37 lois, and up to this day, has either the said Langlois or any person or

persons claiming under him and in his right, by descent, or devise, or in any other manner whatsoever, pretended to, preferred, set up, or claimed any right or title to, or interest in, the said claim, or to or in the said tract of land so selected, located, and surveyed as aforesaid, or ever repudiated or made reclamation against, or in anywise objected to the said conveyance to the said Samuel Hammond, or denied the right of the said Story to sell the said claim and right of location, and receive the price thereof and execute said instrument of transfer and cession, or denied that he was such attorney in fact and assignee. Nor has either the said Francis Langlois or the said Samuel Hammond, in more than half a century, been heard from or of, in any way or manner, in connection with said claim or location.

And this, although the said location of the said claim of Langlois and said certificate No. 467 upon the said Hot Springs has been for more than fifty years a matter of public notoriety in the State of Missouri, and for more than forty years in the Territory and State of Arkansas; and although the said Elias Rector, in his life-time, and your petitioner since June, 1838, have asserted the said claim and maintained the entry as valid; and your petitioner has for more than thirty years continually and publicly asserted it, made it known, and endeavored to maintain it in his own name alone since his mother's death, and for himself alone; and has in divers ways presented the same at the city of Washington, and expended large sums of money and employed many counsel in the prosecution thereof, and there has been long and vexatious litigation in regard thereto in the courts of Arkansas with other claimants; so that nothing could have been for thirty years more notorious than your petitioner's claim to the said springs as the sole owner and proprietor thereof under the said location of the said claim of the said Francis Langlois.

But for further assurance and security, and availing himself of the remedy afforded by the laws of the State of Arkansas, your petitioner, in the year 1840, instituted his suit in equity, in the circuit court of the county of Hot Springs, in the said State, in which county the said lands lay, and which court had general equity jurisdiction, against the said Francis Langlois, Joseph Story, and Samuel Hammond, and Eliza Hammond, wife of said Samuel Hammond, setting forth the origin of the
38 said claim of the said Francis Langlois, his said sale and transfer to the said Samuel Hammond by his attorney in fact, the said Story, the said location and survey, and sale and conveyance by the said Hammond and wife to the said Elias Rector; and resurvey of the said lands as hereinafter will be stated, and the issuance of certificate thereon by the recorder of land titles, authorizing a patent; and praying decree to invest him with all and every right of the said defendants therein, and to have his title forever quieted, and due notice of the institution of the said suit having been given by publication, which was by the law of the said State sufficient service of process, it was by the said court, at the March term thereof, A. D. 1853, considered, ordered, adjudged, and decreed that each of the said defendants should make, seal, and deliver conveyance in absolute fee to your petitioner, his heirs and assigns, for ever, for all their right, interest, and estate in and to the said right under said act of Congress of 17th February, 1815, and said certificate, and the lands so surveyed and selected as aforesaid, including said Hot Springs, and that the absolute right and title in fee to the said right, certificate, location, and lands should be, and the same thereby was, divested out of the said defendants, and each of them, and transferred to and vested in your petitioner; and that he and his heirs

and assigns should be and were perpetually quieted as to all claim of the defendants and any of them.

A copy of which decree was filed for record with the recorder of deeds and mortgages of said county of Hot Springs on the 23d day of March, 1853, and on the same day duly recorded; and the same is, by the laws of the said State of Arkansas, equivalent to a formal conveyance to your petitioner by the said Francis Langlois, Joseph Story, and Samuel and Eliza Hammond of all their right, title, and interest in and to the said claim of the said Langlois and in and to the said certificate, and the said land so surveyed and selected, and cannot be questioned or impeached by them collaterally in any court or place whatsoever, but only by bill of review in the same court; and a copy of the said decree as recorded is upon the files of the said General Land-Office.

Your petitioner further avers that, the said survey having been regularly and faithfully made by a qualified and competent deputy surveyor, in due time, in pursuance of and in conformity to the order of the said surveyor-general, and in accordance with the notice of selection
39 and application for survey, and the plat and description being in proper form and properly certified, the said surveyor-general could not but receive and approve the same as a true and correct survey, making no objection to it as incorrect or as in any way at variance with his order and the application, or as not sufficiently and in due form made and returned.

But nevertheless the said surveyor-general, at the moment when the said survey was returned, found himself forbidden to receive and approve it as an official survey authorized by law, and a valid location of the said claim; to record it in his office or to forward it or a certified copy to the recorder of land-titles, with the notice in writing required by said New Madrid act; for the following reasons, viz:

That on the tenth day of July, 1816, the Commissioner of the General Land-Office had instructed the surveyor-general at St. Louis that the act of March 3, 1811, section 8, had directed that certain lands in the Territory of Louisiana should be surveyed; that section 9 of the same had directed that a land-office should be established; and that section 10 had directed that the lands so surveyed should be offered for sale. Wherefore he decided, "the tract of land which has been directed to be surveyed, for the purpose of being offered for sale at St. Louis, appears to be the tract upon which the locations are to be made;" the locations spoken of by him being those under the said act of February 17, 1815, and no others.

But he also advised the surveyor-general, that, prior to the survey of the lands that were to be sold at St. Louis, the said act might be fairly construed to leave the form of the survey to the surveyor.

By which eighth section of the said act of March 3, 1811, the surveyor-general was directed to cause such of the public lands in the Territory of Louisiana, as the President of the United States should direct, to be surveyed and divided in the manner provided by law as to certain other lands.

That the first direction for the survey of lands in said Territory was given on the 23d day of March, 1815, by letter from the Commissioner of the General Land-Office to the surveyor-general at Chillicothe, by which the latter was instructed to direct the principal deputy surveyor of the Territory of Missouri "to survey into townships and sections such part of that Territory as would include the principal part of the private claims."

40 That on the 24th and 27th days of March, 1815, the Commissioner of the General Land-Office by letter informed the same surveyor-general that the President of the United States had directed that about one hundred townships should be surveyed and prepared for sale in the Territory of Missouri, in the vicinity of St. Louis, in addition to the surveys into townships before directed; surveying first the lands between the rivers Mississippi and Missouri, ceded by the Sac and Fox Indians, and the residue of the one hundred townships in some other part of the Territory, in the vicinity of St. Louis.

That on the 15th of April, 1817, the Commissioner of the General Land-Office wrote to the surveyor-general at St. Louis, "I approve of your determination not to furnish the Madrid claimants with any documents to enable them to apply for patents until you have clearly ascertained that these locations do not conflict with prior claims." And he further decided that these persons being "authorized to locate on any of the public lands of the said Territory, the sale of which is authorized by law," the lands which the President had not directed to be prepared for sale could not, with propriety, be considered of that description.

That on the sixteenth day of July, 1820, the President had not directed any lands in the district of Arkansas, north or south of the Arkansas River, to be surveyed and prepared for sale, nor any other lands in the Territory of Missouri than those mentioned above in the vicinity of St. Louis.

That in the year 1815, and until the 24th of August, 1818, a little tribe of Indians, called the Quapaws, being an off-shoot of the Ouasachis, or Osage tribe, lived on the river Arkansas, below that place where the city of Little Rock now is, and chiefly about the post of Arkansas, near the mouth of the river, occasionally hunting to the westward and southward, and claiming, but not occupying, the large country lying between the river Arkansas and the Red River, including the Hot Springs of the Ouachita; whose vague and unsubstantial claim to that country, with the exception of a reservation on the Arkansas, the United States needlessly purchased, by treaty of August 24, 1818; so that at the date of the act of February 17, 1815, the sale of the region of country in which the Hot Springs were situate was not authorized by law; and after that unreal Indian title was extinguished, the same region of country was held by the Commissioner of the General Land-Office not to be lands the sale of which was authorized by law.

41 Which decision and instruction had not been reversed when, on the fifth day of July, 1820, the Commissioner of the General Land-Office enclosed and transmitted to the surveyor-general at St. Louis three opinions of the Attorney-General of the United States, given to the Secretary of the Treasury on the 11th of May, and the 19th and 22d of June, in that year, in relation to locations made by the New Madrid claimants, and said: "The Secretary of the Treasury directs that locations which have been made, which are conformable to law, may be withdrawn or amended so as to conform to section-lines." Which letter, with its enclosures, reached the said surveyor-general by the due course of mail, about the 15th or 16th day of July, 1820, or at the very date of the said survey so as aforesaid made of the said Langlois claim, and returned by the said James S. Conway, deputy surveyor.

By the first of which opinions, the Attorney-General decided that locations under the act of February 17, 1815, for the relief of those inhabitants of the county of New Madrid who suffered from earthquake, must conform with the general plan of surveying the public lands.

By the second opinion he reiterated and applied the same decision;

and also decided that it was wholly inadmissible to grant patents upon locations made in a square previous to the sectional lines being run; that the sale of land is not authorized by law until the sectional lines are run, and consequently all locations made previously thereto were unauthorized, the circumstance of their being located in a square being perfectly immaterial to the policy of the law.

And by the third opinion he decided that the fundamental defect still remained; that the locations were made on lands the sale of which was not authorized by law, wherefore they were made without authority and were void, and patents, consequently, could not issue on them. "The contemporaneous survey of these void locations with the general survey," he said, "and the permitting them to produce the effect of causing fractions in the general survey, was unauthorized by law;" and that the sale of the fractions so caused was illegal and void, because the public law, of which every one was bound to take notice, authorized no such fractions from such a cause; wherefore the sales ought to be set aside, and the sections still be subdivided according to law.

All which opinions were referred by the Secretary of the Treas-
42 ury to the Commissioner of the General Land-Office, the former, in so referring the third opinion, commanding the latter to conform to the second, of which it was confirmatory.

And on the 27th of November, 1818, the Secretary of the Treasury decided that the pre-emption act of 1814 could not by any just construction be extended to lands not within the organized limits of the Territory of Missouri, whether such lands were Indian lands or not; that the Territory of Missouri, within the meaning of that act, was the Territory as organized into counties, inasmuch as any other construction might give rise to claims through the whole extent of country from the river Mississippi to the Pacific Ocean.

Your petitioner further avers that, as was his duty, the said surveyor-general, William Rector, refused to receive the said plat and report of survey as official or as authorized by law; or if before the receipt of the said opinions he had received it as such, he did, upon receiving them, reject it, and refuse to permit it to be recorded, or even filed in his office, or to transmit a copy to the recorder of land-titles at St. Louis; but his own opinion being that the decisions of the Attorney-General were erroneous, he permitted the said plat and report of survey to be deposited in his office and registered, to the end that if Congress should declare such locations valid, the said Samuel Hammond and Elias Rector should be able to establish that the said survey was made; and the said James S. Conway furnished the said Hammond and Rector with two other copies, to be retained by them in their own possession, they believing the location valid, and that it would be confirmed by Congress, and therefore meaning to keep safely in their own possession the evidence of their said location by survey. Both which copies were retained by the said Elias Rector, after his purchase of the remaining interest of the said Hammond, until his death; after which they came to the petitioner's possession, who, in the year 1850, finding no copy on file in the office of the surveyor-general of Arkansas, at Little Rock, deposited them in that office on the 18th June, in that year, and withdrew one of them on the 12th of September, in the same year, and filed it in the General Land-Office.

But the petitioner avers that shortly after the creation of the office of surveyor-general for Arkansas by the act of 15th June, 1832, and the appointment of the said James S. Conway as surveyor-general before October, in that year, the surveyor-general of Illinois and Missouri

43 transmitted to the office of the surveyor-general, at Little Rock, with and among other papers, the copy of the plat and report of survey so as aforesaid deposited there in July, 1820: and the said copy arrived in safety at the said office in Little Rock, and remained in that office for several years, until at some time prior to the year 1850 it was lost, destroyed, or abstracted, as many other papers were.

That on the 2d day of September, 1820, the Commissioner of the General Land-Office wrote to the said surveyer-general at St. Louis: "Your view of the laws relative to New Madrid claims, and your reasoning on the subject, correspond with my own; but the opinion of the Attorney-General will prevent patents issuing on certain locations which he has declared illegal. Probably Congress, at their next session, will pass a law to legalize those locations, and thereby avoid the confusion ,injuries, and trouble which must otherwise ensue." And he advised him that the directions of the Secretary in regard to withdrawing or amending locations were not imperative, but permissive; and said, "I presume the holders of them will wait to see what will be done at the next session of Congress."

On the 26th of April, 1822, an act of Congress confirmed locations of New Madrid claims theretofore made, not conforming to the sectional or quarter-sectional lines of the public surveys; but such locations being thereby confirmed only when made in pursuance of the provisions of that act in other respects, and it being still the law of the General Land-Office, as adjudged and decided by the Secretary of the Treasury, Attorney-General, and Commissioner of the General Land-Office, that the location of a New Madrid claim outside of the organized limits of the Territory of Missouri, or on lands to which the Indian title had not been extinguished, was unauthorized, illegal, and void; and that the lands south of the Arkansas River not having, when said location was made, been directed to be surveyed, the sale thereof was not at that time authorized by law, and for that reason also the said location was unauthorized, irregular, illegal, null, and void.

That in the year 1824 the said William Rector resigned the office of surveyor-general, and on the 10th of October, 1825, the same Attorney-General of the United States incidentally and inconsiderately decided that the expression, "the sale of which is authorized by law," in the act of February 17, 1815, confined the right of location of New Madrid
44 claimants to lands the sale whereof was authorized by law at the date of the passage of that act; that is, that according to the decisions then in force and enforced, as to the meaning of the phrase "sale authorized by law," there was not a single foot of land in the whole Territory of Missouri subject to location by a New Madrid claim, nor ever had been, and every such location ever made was void.

On the seventeenth day of February, 1818, by the act of Congress making provision for the establishment of additional land-offices in the Territory of Missouri, it was enacted that land-offices should be established in the county of Arkansas and in the county of Lawrence for all the lands in the districts thereby designated, which first-mentioned district extended to the line between the Territory of Missouri and the State of Louisiana, and included the said Hot Springs; and the President was directed to cause the said land-offices to be opened, and appoint a register and receiver for each, as soon as, in his opinion, there should be a sufficient quantity of the public lands surveyed, within each of said districts, respectively, to authorize the opening of the same; and by the third section of the said act the President was authorized to direct so much of the public lands lying in each district as should have been sur-

veyed according to law to be offered for sale whenever a land-office should have been established in either of said districts.

In the year 1820, lands south of the Arkansas River, west of the western line of the reservation for the Quapaws, made by the treaty of August 24, 1818, and which were in February, 1815, in the country to which the Quapaw title had not then been extinguished, had been or were surveyed according to law; and on the 13th of June, 1823, the President proclaimed a sale of public lands south of the Arkansas River, including the township in which the town of Little Rock lay, and the Quapaw title to all whereof was extinguished by the treaty aforesaid, to be had on the third Monday of October, 1823.

That by the act of Congress of March, 2, 1819, the southern part of the Territory of Missouri became, from and after the fourth day of July in that year, the Territory of Arkansas; and when the said survey was made, the government of the Territory had been established, and the country between the river Arkansas and the Red River had been divided into counties, the said Hot Springs being in the county of
45 Clark; that the settlement of white men had long before extended to those springs, and beyond them to Red River; and the sale of all the lands to which the Quapaw title had been extinguished was authorized by law, the sales so proclaimed and made in 1823 having been directed and made by virtue of the authority given to the President to direct the sale thereof, by the said act of February 17, 1818, no subsequent act having added to or extended that authority.

That, on the second day of March, A. D. 1827, when there was no longer any valid or lawful objection to the said location of the said claim of Francis Langlois, that had not been waived or cured by proper legislation, the act of Congress was passed, supplementary to the act to perfect certain locations and sales of the public lands of Missouri, passed April 26, 1822, aforesaid, by which supplementary act it was enacted that the locations of lands theretofore made, according to law, by virtue of warrants issued under the said act of February 17, 1815, and not exceeding six hundred and forty acres in the whole, to any one sufferer, should be perfected into grants, in the manner prescribed by that act, any construction thereof to the contrary notwithstanding.

But the General Land-Office and Treasury Department nevertheless continued to hold and determine, as before, that locations of New Madrid claims upon lands south of the Arkansas River, to which the Quapaw Indian title had not been extinguished on the 17th of February, 1815, were void, because, in consequence of the existence of that title, the sale of such lands was not then authorized by law.

And although several of the New Madrid locations made upon lands south of the Arkansas River, the Quapaw title whereto had not been extinguished in the year 1815, and was extinguished in 1818, and among them that of John Dorlac, located February 26, 1819, were confirmed, and patents issued upon them, as by the records of the General Land-Office will appear and your petitioner will prove, that of Dorlac having been patented in the year 1836; and although in the year 1836 the Commissioner of the General -Office, the Attorney-General, and the Secretary of the Treasury all decided that the New Madrid locations of the claims of Peter Porier and Eloi Dejarlois, made, one in the year 1820, and the other in the year 1819, on lands south of the Arkansas River, that were in the same condition, had been confirmed by the act aforesaid, of March 2, 1827, they having been made without regard to the lines of the public surveys; yet, on the 18th day of September,
46 1839, the Commissioner of the General Land-Office decided, and on the 24th day of the same month the Secretary of the

Treasury affirmed his decision, that those New Madrid locations were void, because they were made on lands the Indian title whereto was not extinguished until the 24th of August, 1818.

Which decision continued to be the law and rule of the Departments of the Treasury and of the Interior until, on the 30th of August, 1854, it was finally otherwise adjudged by the Attorney-General, and settled, that such locations were valid if the sale of the lands was authorized by law at the time when they were made. During all which time it absolutely barred and prevented the taking of any steps whatever by the said Elias Rector, or this petitioner, to have the said plat and report of survey recorded, and obtain such certificate upon it as would entitle to a patent.

In the year 1850 the petitioner made an effort to obtain a patent, under the act of 1843, notwithstanding the said decisions and adjudications, and notwithstanding the reservation of said lands for the future disposal of the United States by the act of 1832.

But in October, 1851, the Secretary of the Interior affirmed the construction of the phrase, "the sale of which is authorized by law," that had been given by the Attorney-General and Secretary of the Treasury in 1820, 1825, and 1826, and by the Commissioner of the General Land-Office and Secretary of the Treasury in 1839.

But although this misch'evious and vicious construction was finally exploded on the 30th of August, 1854, its effects continued, and have continued until this day.

For, in the mean time, the act of April 6, 1832, by its third section, declared reserved for the future disposal of the United States the Hot Springs aforesaid, together with four sections of land including them, and enacted that these lands should not be entered, located, or appropriated for any other purpose whatever.

On the 3d day of May, 1836, the Attorney-General decided that none of the lands ceded by the Quapaw treaty of 1818 were, or ever had been, subject to pre-emption under the act of 1814.

In the year 1837, the region of country in which the Hot Springs of the Ouachita are situate had not been surveyed, owing to the presence of large masses of magnetic iron-ore in the vicinity, seriously affect-
47 ing the compass, and preventing a survey in the usual mode; or, at least, it had, for that reason, been only partially and defectively surveyed.

The Hon. Edward Cross, afterwards member of Congress from that State, who was then the surveyor-general, having succeeded the said James S. Conway, who was then governor of the State, made a contract early in 1837 with John C. Hale, a deputy surveyor, for the subdivision of several townships in and around the Magnet Cove and Hot Springs, in which contract was included the subdivisional work of township two south, of range nineteen west, in which the Hot Springs are situate. At that time the registered survey aforesaid, made and returned by the said James S. Conway in 1820, and numbered 2,903, still remained in the office of the said surveyor-general of Arkansas, at Little Rock, to which it had been transmitted from the office of the surveyor-general at St. Louis when the office of surveyor-general at Little Rock was established, and its existence and presence in the office, and its genuineness, were all well known to the said Edward Cross, as they always had been to all the clerks in the office, all of whom were familiar with the handwriting of the said James S. Conway; during whose term of service as surveyor-general, also, the presence of the said survey in the office was well known to himself and the clerks, and it was known to be and recognized as genuine by him and them.

And the said Edward Cross, when he directed the said John C. Hale in what manner to make the surveys which he had contracted to make, knowing of the said location and survey by the said James S. Conway in 1820, and of the existence and presence among the files of his office of the said survey, and supposing the marks of survey made by the said Conway to be mostly, if not wholly, obliterated, directed that it should be resurveyed, and the lines of the public surveys be made to close up against and abut upon its lines.

But the lines traced by the said James S. Conway were not so effaced or obliterated that they could not be readily found and retraced by a surveyor, and even in the year 1855 they were carefully and accurately retraced by an experienced surveyor, who readily found the northeast corner of the survey of 1820, and the red oak bearing S. 62° W. 16 links from the corner, and identified it clearly, and also found the line of survey distinctly marked on the timber, except where in places the land had been cleared. He found also the bearing-tree at the south-
48 west corner, that at the northwest corner having been cut down; and the west boundary-line distinctly marked on the trees, except for the length of six chains, where the timber had been destroyed, and the same along the south boundary.

On the 12th day of May, 1837, the said surveyor-general, Edward Cross, gave to the said John C. Hale, deputy surveyor, his instructions in writing in regard to the manner in which to survey his district, informing him that in addition to a sketch of it he would receive a copy of the location of the certificate No. 467 aforesaid, and required him to survey it in exact accordance with the location, and previous to the survey of the public lines. And he laid down the form of the report to be made of the survey upon said certificate 467, by which direction the survey was to commence at the principal Hot Spring, which would thus be as nearly as possible in the centre of the survey.

And the survey was accordingly so made, and a plat thereof, with the notes of the survey in full, returned to the office of the said surveyor-general, bearing date the 28th February, 1838, the lines of the old survey not being retraced, but a new survey being made as directed so as to place the springs as nearly as possible in the centre of the square; in consequence whereof the two surveys do not agree in their corners or lines.

Which plat and notes of survey being so made out and returned, entitled "certificate No. 467, (var. 8° 45' east,) survey 2903," which was the number of the original survey, the same were examined and approved by the said surveyor-general on the 23d of April, 1837, and a copy forwarded by him with his approval certified thereon to the recorder of land-titles at St. Louis, in whose office it was, by the 16th June, 1838, duly recorded; and copies of the same are on the files of the General Land-Office; on which day the recorder granted and issued his certificate, making known that in pursuance of the said act of 1815, a location certificate, No. 467, had issued from that office in favor of Francis Langlois, or his legal representatives, for two hundred arpents of land; that a location had been made, as appeared by the plat of survey therewith, and that the said Francis Langlois, or his legal representatives, were entitled to a patent for the said tract, containing, according to said location, one hundred and seventy acres and fifteen hundredths of an acre, situated in the State of Arkansas, the township and range not
49 mentioned, survey 2903; which was addressed to the Commissioner of the General Land-Office, and was delivered to your petitioner.

Immediately whereupon your petitioner, then a young man of barely the age of majority, forwarded the said certificate, numbered 435, to counsel at Washington, and commenced and from that time forward continued his efforts to procure a patent for the said land. But the objection interposed as aforesaid by Mr. Attorney-General Wirt, that the location was of lands which were at the date of the New Madrid act not authorized to be sold, because the claim of the Quapaw Indians to the country in which they lay had not been extinguished, and his pedantic interpretation of the word "is," still thwarted and defeated your petitioner; and the intervening reservation of the said Hot Springs, and the four sections including them, for the future disposal of the United States, was held to prohibit the issuing of a patent.

Your petitioner was therefore forced to look for relief to the Congress of the United States, being utterly at a loss whether to rely on the survey regularly made in 1820, which was assailed because it had not been recorded in the office of the surveyor-general and forwarded to the recorder of land-titles, or on that officially ordered in 1837, and which should have been a resurvey of the still legible lines of the original survey; and being met and foiled on every hand by decisions, all baseless and erroneous, and some absurd, which were a law to the General Land-Office.

Accordingly, by the aid of the Senators and Representatives in Congress of the State of Arkansas, he procured the passage of the act of March 1, 1843, especially and particularly intended by them to confirm the said location of the said Langlois claim, and entitled "An act to perfect the titles of lands south of the Arkansas River, held under New Madrid location and pre-emption rights under the act of 1814," which enacted that the locations theretofore made, without expression of any distinction between them, or exception of any, of warrants issued under the act of February 17, 1815, made on the south side of the Arkansas River, if in other respects made in pursuance of that act, should be perfected into grants, as if the Indian title had been extinguished at the time of the passage of that act.

Your petitioner further states, that immediately after the passage of the said act of the year 1843 he renewed his attempts to obtain
50 from the General Land-Office a patent upon the said location, and the claims of the heirs of Ludovicus Belding under the pre-emption act of May 29, 1830; of the widow and heir of John Perciful, under the pre-emption act of 1814; and of John C. Hale, under a Cherokee pre-emption location, being also presented and urged, the litigation and controversy continued before the Commissioner of the General Land-Office and the Secretaries of the Treasury and Interior during several years, opportunity being given to each of the said pre-emption claimants to make proof of the facts necessary to the establishment of their claims, until in the year 1849 the whole matter and the questions arising on all the claims were submitted by the Secretary of the Interior to the Attorney-General, who, on the 29th day of April, A. D. 1850, informed the Secretary that he had carefully considered the claim of your petitioner located on the Hot Springs on the 27th January, 1819, and was clearly of opinion that the patent should issue; that he had come to that conclusion some time before, after full investigation, but had delayed expressing the opinion until he could hear from all the parties, or their agents, who had an interest adverse to the claim; that he had recently done this, and after giving the question a second careful consideration he entertained, very decidedly and with a perfect conviction that he was right, the opinion which he had at first formed. And he said that he

would thereafter give the reasons in detail, but in the mean time advised that the patent should be granted.

And on the 2d day of May, 1850, he wrote to the Secretary of the Interior that the ground on which he had mainly formed his opinion was, that waiving all other grounds of title in your petitioner to the patent claimed, he was entitled to it by virtue of the said act of the 19th March, 1843, and he repeated that of the correctness of this view he had not the shadow of a doubt, and hoped the patent would be granted. And he promised to avail himself of his first leisure after the adjournment of the Supreme Court to assign his reasons at length.

Upon which the Secretary of the Interior sent the papers to the General Land-Office with directions for the patent to issue, but before it could be issued in accordance with the order, counsel employed by William H. Gaines, who had married one of the heirs of Ludovicus Belding, intervened, protesting against the issuing of the patent and urging anew the utterly baseless and impudently fraudulent claim of those
51 heirs, pretending to a right of pre-emption under the act of 1830, and induced the Secretary of the Interior to suspend the execution of his order for issuance of the patent.

In which condition the matter continued until there was a change of administration, and the whole case fell into the hands of the Hon. A. H. H. Stuart, Secretary of the Interior, eminent and influential counsel being employed in behalf of the said claim of the heirs of the said Belding, by whom the Secretary was persuaded to decide, first, that the location of the said claim of Francis Langlois was void, because made on lands the sale of which was not authorized by law at the date of the passage of the act of February 17, 1815; and second, that the act of 1843, confirming all New Madrid locations south of the river Arkansas, without exception, did not repeal or do away with the act of 1832, reserving the Hot Springs and adjacent lands from entry, location, or appropriation.

Which decision was made on the 10th day of October, 1851, and your petitioner soon after applied to the successor of the said Secretary for a reconsideration of the matter, who doubted his power to re-open and review the past action of the Department, and submitted the whole case to the Attorney-General, whose opinion was that it was proper that the decision should be reconsidered, and who held that the first objection taken by Mr. Secretary Stuart amounted to nothing, saying: "I do not entertain the least doubt that a New Madrid location, made on lands the sale of which was authorized at the time of the location, would be a good location, whatever might have been the condition of the lands at the time of the New Madrid act." And this he held to be clear, first, because the word "is," in that act, had reference, not to the date of the law, but to that of the thing to be done under it; second, because the Supreme Court had decided that a New Madrid location might be made on lands not surveyed or proclaimed; and third, because the act of 1843 had removed all difficulty arising from occupancy of the Indians.

But he held that the second objection was valid, unless the claim had been validly located, by survey properly returned, prior to the reserving act of 1832; which question of prior location, he thought, should receive the careful consideration of the Department; and he held that, with the reservation of this matter, none of the contending parties had a valid claim to the Hot Springs. And he also held that the act of 1843
52 had not abrogated, pro tanto, the previous reservation of the Hot Springs, as it was not specifically applicable to them, and a general provision of law authorizing privileged locations on the public lands does not attach to or cover an existing reservation; and as the act

cured but one defect, that of the existence of the Indian title at the passage of the act of 1815.

After which decision, the Secretary of the Interior refused to issue a patent upon the said location of the said claim of Francis Langlois; and although your petitioner afterwards furnished ample and abundant proof of the making of said survey of 1820 by order of the surveyor-general, and of the genuineness and authenticity of the protocols aforesaid, and the other facts hereinbefore stated in connection therewith, which testimony will be hereinafter more particularly referred to, he could obtain no reversal of the decision aforesaid; and therefore endeavored to obtain legislation permitting all claimants to institute suits to establish their claims.

But war intervened before that could be effected; and after its close, as Mr. Secretary Stuart, acting under the advice of the Attorney-General, and with him being misled and deceived by plausible and fraudulent representations of the representative of the heirs of Belding, had improvidently and improperly permitted them (after deciding that their pretended claim was worthless) to pay, nevertheless, the purchase-money for the quarter-section claimed by them into the receiver's office at Washington, Arkansas, and upon that a conditional certificate of entry to issue to them, in order, as it was alleged, to put them on the same footing with other claimants, but really, under the laws of Arkansas, to arm them with title sufficient to maintain ejectments, and enable them to plague and harass the other claimants, and vex the courts with useless litigation, they agreeing not to ask for a patent on the entry; and as suits were immediately commenced, and the litigation so caused continued until recently, the petitioner awaiting the passage of some law that should enable him to present his claim to a competent tribunal which could decide it upon the merits, and whose decision, or that of the appellate court, would settle the controversy.

By the uniform practice of the General Land-Office in cases under the act of February 17, 1815, the location of a New Madrid claim was considered full and complete when the survey was returned and approved by the surveyor-general. The application and survey constituted
53 the location. By them the claimant had selected his land and had it separated from the mass of the public domain. The survey could be made upon his application, and he was not required to see that it was transmitted to the office of the recorder of land-titles. Many patent-certificates were issued by the recorder of land-titles upon the filing of the surveys long after the time fixed by the act of April 26, 1822, for the location of such claims; the survey made and returned being deemed to have relation to the time of the application for the survey.

For, of the twenty-two New Madrid claims located in Arkansas, only four were surveyed before the expiration of one year after the passage of the act of April 26, 1832; five not being surveyed at all, but the locations being made according to the public surveys, as by the lists of such claims on the files of the General Land-Office will appear.

All of which twenty-two locations, except that of Francis Langlois and one other, have been perfected into grants and patented, though subject to every one of the objections ever raised against the location of the said Langlois claim. And, in addition to the claims located in Arkansas, there were many located in Missouri, where the location or application and designation of the land selected, having been made in the surveyor-general's office by the 26th of April, 1823, the surveys were not made and returned until many years afterward, and in some

cases not until within a few years of the present time; and in many cases locations and selections were made according to the legal subdivisions of the public surveys, in which cases there were no surveys of the locations, and consequently no plats returned to the office of the recorder of land-titles; and yet patents issued upon all such locations.

And when the recorder of land-titles made his return to the General Land-Office, of New Madrid claims, on the 8th of June, 1824, he said in his certificate "that in all cases where the surveys for those New Madrid certificates are dated subsequent to the 26th of April, 1823, the locations were made prior to that date." No act of Congress ever fixed any period within which the surveys of New Madrid selections should be made or returned, or within which a plat should be returned to the recorder, or he should cause the same to be recorded; nor was the date of return or record ever in a single instance noted by the recorder.

54 And, in fact, after the passage of the act of 1816 in regard to the surveyor-general, such locations and surveys were never recorded by the recorder of land-titles but in the office of the surveyor only.

And your petitioner expressly avers, that after the passage of the said act of 1816, and the establishment of the office thereby provided for, the location of a New Madrid claim was by the Government deemed complete when the survey had been made and returned to the office of the surveyor-general, in cases where a survey was necessary, because the location was not to be in accordance with the lines of the public surveys.

And when the Supreme Court of the United States said that the practice of the Government was, not to consider a location complete until the survey was returned to the office of the recorder of land-titles, it was utterly mistaken in point of fact, and the statement was not true. Such a practice would have been absurd and contrary to principle, and it never was adopted. When the survey was complete, which it was when returned to the surveyor-general, so that it could be recorded in his office and he could certify copies of it, the location was compiete, and the land severed from the public domain. And there is not now, nor ever has been since the establishment of the office of surveyor-general for Illinois and Missouri, even one survey, or one paper purporting to be a survey, returned either by the principal deputy surveyor or by the surveyor-general, on file in the said office of the recorder of land-titles, of any New Madrid claim, Spanish grant, or any other private land-claim, but all such original papers are in the office of the surveyor-general. And from 1816 to 1836 it was not the practice of the recorder of land-titles to record in his office the notices and plats required by the act of 1815 to be sent to him. The original papers, the application for a survey, the order of survey, and the survey returned, never left the surveyor-general's office. Those of the twenty-two New Madrid claims located in Arkansas, were transferred from that office to the office of the uditor of public accounts of the State of Arkansas, when the surveys in that State were completed; and those in the office of the surveyor-general at St. Louis were turned over to a custodian there.

Your petitioner further states, that in directing and ordering the said survey, in 1837, the surveyor-general, Edward Cross, merely obeyed the instructions of the Commissioner of the General Land-Office, of

55 long standing and general, which required in all cases that private claims already located should be resurveyed when the public lands around them were to be surveyed. In circular instructions to the surveyor-general, given by the Commissioner on the sixth of March

1816, the latter said: "Private claims on lands covered by these surveys must be surveyed at the same time with the public lands, and a connected plat or plats of the whole transmitted to this office and to the land-office at St. Louis."

Your petitioner was willing to pay the expenses of a resurvey; but he did not procure the order, nor was the order properly made; because, instead of furnishing the deputy surveyor with the original survey, and directing the old lines to be run again in accordance with it, the direction was to make the survey strictly in accordance with the original application. But though a new survey, it was not ordered or made by way of location of the said claim, but as a necessary preliminary to the survey of the subdivisions of the adjacent public lands, and that upon its lines those of the public surveys might close and abut.

And your petitioner did not for many years know that the two surveys were not alike; nor did he, indeed, know where the lines of the old survey were until he had them examined and run again in 1855. But it was not material to his interests whether the old survey was exactly reproduced; and he was content with the new one, which he supposed to be a resurvey as nearly as one could be made, believing that the second survey would relate to the date and time of the original application, as a resurvey necessarily would.

But when it was regarded as and insisted to be the original and first location of the said claim, he protested against its being so considered, and insisted upon the original survey, one of the protocols whereof had been on file in or among the papers of the surveyor-general's office at Little Rock from the time when it was transmitted to it among other documents, papers, files, and records relating to lands in Arkansas, when the office at Little Rock was opened until the year 1837, and was in some manner lost or destroyed about the time when the second survey was ordered or made.

And he now insists upon the said original survey as a valid location of the said claim, and denies the right of the said surveyor-general at Little Rock to order a new survey of said location, instead of
56 a resurvey and the ascertainment and retracing of the lines of the original survey in 1838.

Accordingly, in the year 1855, he took the testimony, ample and abundant, of witnesses of the highest character, (the said James S. Conway having died,) to prove the genuineness and authenticity of the said plat and notes of survey made out by him, and that the whole was in his own handwriting and evidently an ancient paper; that he did, in fact, make and return the said survey, and that one of the originals thereof was filed by him in the surveyor-general's office at St. Louis, and transmitted thence to the surveyor-general's office at Little Rock, and there seen and known of many during several years, until it was in some unknown manner lost; among which testimony were the depositions of the Hon. Edward Cross and Frederick R. Conway, who had been surveyor-general and recorder of land-titles at St. Louis; of Frank R. Conway, who had also been such surveyor-general and recorder of land-titles; and of clerks, who were persons of high character and respectability; all which testimony, and that in regard to the re-examination and retracing of the lines of the original survey, and one of said original triplicates bearing upon its face evidence of its antiquity and authenticity, are now upon the files of the General Land-Office.

Finally, your petitioner states that his father, Elias Rector, died at St. Louis in the month of August, 1822, leaving a widow and three children, of whom your petitioner was one, and is now the sole survivor,

his mother having died, and that by his last will and testament, made on the 9th day of August, 1822, his said father devised to his said wife an estate for life in his realty and personalty, leaving all the same to descend according to the law of the place where it was situate, upon her death; and that she and his brother and sister having died without heirs of the body, the lands aforesaid are, and long have been, his in fee-simple absolute.

He further states that his father died in the same month of August, 1822, and that the said William Rector, one of the executors named in the said will, made probate of the same, and obtained letters testamentary and of execution thereof on the 16th day of September, 1822. At the death of his father your petitioner was but five years of age, and the other two children died shortly after the death of their father, each being under the age of ten years at the time of its death; and
57 the mother of your petitioner died in April, 1852, since which time he has been the sole owner of said claim and lands, having, by himself and his tenants, had possession of said land since about the year 1838.

That in or about the year 1835 he removed from Missouri to Arkansas, to assert, protect, and maintain the right of his mother and himself to the said Hot Springs and the lands so surveyed as aforesaid; and as soon as plats of the adjoining lands were on file, so that the lands so surveyed could be properly described, he commenced his efforts to obtain patent therefor, and has ever since, except while war was raging, been constantly and vigilantly prosecuting his said claim, and defending his possession against those claiming adversely to him; having never waived, abandoned, or even neglected the said claim from the beginning.

Upon all which premises (all whereof the petitioner is ready, as he hath alleged and averred them, so to maintain and prove them in such manner as the court may be pleased to direct) he doth aver and will maintain:

That the said claim and right of location of the said Francis Langlois was lawfully located on or before the 16th day of July, 1820, upon the tract of land including the said Hot Springs so surveyed as aforesaid by the said James S. Conway; that all legal objections to the said location were long since removed and effaced by legislation of the Congress of the United States; and the issuing of patent for the said land upon the said survey has during fifty years been prevented by ridiculous and unfounded objections; that his father was, and he now is, the owner and proprietor in fee of the said lands, as surveyed in 1820, and he is entitled to a patent therefor.

And in regard to the various claims and pretences of right to the said lands, or parts thereof, which have during so many years vexed and hindered him, he alleges and represents:

That one John C. Hale has claimed title to one hundred and sixty acres of land, including the said springs, by virtue of a Cherokee pre-emption, under the act of May 26, 1824, "concerning pre-emption rights in the Territory of Arkansas," which gave to every person and the legal representatives of every person entitled to a right of pre-emption under the act of 1814, in that tract of country north of the Arkansas
58 river, ceded to the Cherokees in 1817, the right to enter, in lieu thereof, any tract not larger than a quarter-section on which they had made improvements prior to 1824, or any unimproved tract the sale of which was authorized by law.

The tract of land including the Hot Springs, which Hale attempted

to enter with one of these pre-emptions, had not been improved by him prior to the act of 1824, and it was not, when he made his futile and absurd attempt, an unimproved tract, any more than Broadway in New York is an unimproved tract.

Moreover, every entry under that law was required to be made at least two weeks before the adjacent lands should be offered for sale, or if they had been offered for sale before the passage of the act, then within two years from its passage. The lands adjacent to the Hot Springs were offered for sale in 1839, and the said Hale's first attempt to locate his said Cherokee pre-emption was in October, 1850, when, also, the sale of said lands was forbidden by law, and entry of them prohibited; and the act of March, 1843, on which he relies, had not repealed the said provision of the act of 1824.

Sarah Perciful, the widow, and David Perciful, the son, of John C. Perciful, pertinaciously claim that the said John Perciful was entitled to enter and purchase the quarter-section of land on which the said springs are included, to wit, the southwest quarter of section thirty-three, in township two south, of range nineteen west of the fifth principal meridian, under the act "for the final adjustment of land-titles in the State of Louisiana and Territory of Missouri," of 12th April, 1814; the eighth section whereof provided that every person who then had actually inhabited and cultivated a tract of land in the Territory of Orleans, or in that of Missouri, which tract was not rightfully claimed by any other person, and who should not have removed from the said Territory, should be entitled to the right of pre-emption in the purchase of the same, under the same restrictions, conditions, provisions, and regulations as directed by the act of February 5, 1813, giving pre-emption rights to certain settlers in the Illinois Territory. By which act, so referred to, the entry was required to be made at least two weeks before the time of the commencement of the public sales in the district wherein the land lay.

59 Your petitioner alleges and has proven, and is at all times ready to maintain by the proof regularly taken and of record, that the said John Perciful had not, on the 12th April, 1814, actually inhabited and cultivated the said quarter-section of land.

That if he ever had any claim, he sold and conveyed it, absolutely and wholly, on the first day of October, 1824, to one Joseph Paxton, for one thousand dollars, cash in hand then paid to him, and the payment of which he acknowledged; an authenticated copy of which conveyance is on the files of the General Land-Office.

That by the said act of 1813 it was necessary for the party claiming pre-emption to cause it to appear that he was entitled, to both the register and receiver of the land-office, the adjudication of both, that his right was proven by proof of the facts of habitancy and cultivation being indispensable, and their decision being final; but when proof of the said right of the said John Perciful was attempted to be made in the year 1843, the register and receiver at the land-office at Washington, Arkansas, both decided, 1st, that he could have no pre-emption on account of the existence of the Indian title until 1818, and because of the reservation of 1832; but also that, admitting the validity of his settlement, his widow had failed to make out her proof under the act of 1814. In which decision and judgment the Commissioner of the General Land-Office, on the sixth day of December, 1843, declared that he concurred.

On the 12th of October, 1850, the Secretary of the Interior directed all the papers in regard to the pre-emption claims to the said land to be sent to the district land-officers, that they might receive all proof

offered, and finally adjudicate upon the said claims; and on the 5th day of March, 1851, the register, upon full consideration of the testimony, decided that the heirs and representatives of Perciful had failed to establish actual inhabitancy and cultivation, as required by the act of 1814, the receiver deciding that they had proven both prior to April 12, 1814.

And if the same questions of fact are still open for investigation and decision, and this court is authorized and empowered to rehear them, your petitioner avers, and most distinctly and positively alleges, that the truth of the matter was as found and decided by the said register: that the said John Perciful did not inhabit and cultivate the said quarter-section of land prior to or on the 12th of April, 1814, and
60 never was entitled to a pre-emption thereto under the said act of 1814; that so the evidence produced to the register and receiver clearly proved, the character and credit of the witnesses respectively being considered.

For of the witnesses who testified, Jacob Barkman and Abner Hignight were, by far, the most entitled to credit, on more than one account. They are both dead. Barkman was a large planter and a merchant, who lived from an early period and for many years upon the Caddo, a days' ride from the Hot Springs; a man of intelligence and of accurate memory, and with no possible inducement or motive to state anything but the truth; and Hignight, who went to Arkansas as a hunter two or three years prior to 1814, and remained there all his life, settling and living in Clark County, a day's ride from the Springs, was one of those simple-hearted and yet sagacious men of the frontier in whose word the most implicit reliance could be placed, and whose memory was wonderfully accurate and tenacious.

In 1814 the said John Perciful was simply a hunter. His residence then, and before, was on the Ouachita River, about eight miles southeast of the springs, where he settled in 1810 or 1811, and where only he ever had a home or a farm until he died, about 1834, leaving his family occupying the same place, except during a year or two, when, in 1818 or 1819, he removed from the country and settled on Red River; and he himself never did produce or offer to produce, anywhere in the world, a single witness to establish the fact of his settlement and cultivation in 1814.

And your petitioner pleads in bar against the said claim of Sarah and David Perciful the finding and judgment of the said register upon these facts, and the failure of the said claimant to prove them to the satisfaction of both the register and receiver.

One Ludovicus Belding, who also in his life-time never claimed or petended to a pre-emption, or any right to the said springs, lived there, as several others did, in the year 1829, and had a small store there, having rented for five years from the first of January, 1828, some cabins in the valley from the said John Perciful, whose ownership of them was respected, as was customary on the frontier. Belding was a retail merchant, at one time of the firm of Byrd & Belding.

61 The valley of the Hot Springs being but a narrow ravine between two rocky ridges, there are in all of it only a few acres of land; and if it were vacant, and all owned by one person, it would be worthless for a farm. At the utmost, only small garden spots of arable land can be had; and in 1829 the said Belding sowed a few seeds in a little patch near his store or temporary residence, as others did near theirs, and raised a few vegetables.

In the beginning of the year 1830 he closed his mercantile business

there, transferred his lease early in February to one Asa Thompson, and went away; and in August of the same year the leases from Perciful to Belding and from Belding to Thompson were canceled, and one Richard C. Hawkins became lessee of Perciful of the same premises for the unexpired term; all which appears by the testimony of the said Hawkins, now on the files of the General Land-Office, he having long since died.

In making which arrangments the said Belding stipulated for the redelivery of the premises to him, at the termination of the lease, that he might comply with his own contract and redeliver them to the said John Perciful. And to give the said Perciful assurance that he would do so, and of the honesty of his own intentions, he did, on the second day of April, 1831, voluntarily execute, and to the said John Perciful deliver, a declaration in writing, by which he made known that he did lease the buildings and improvements at the Hot Springs of the said Perciful, and did acknowledge his right to said improvements, and that he had before that date leased said buildings and all the privileges except the cabins, two of which were not his, to Richard C. Hawkins until the first day of January, 1833, at which time he thereby bound himself to deliver all and every part of the building and improvements, as the said Hawkins was to deliver the same to him, unto the said Perciful if he should demand the same; and declared that he had no pretensions to the improvements of the said springs, except under the said Perciful; the handwriting of the said Belding whereunto being proven in January, 1842, the same was recorded in the said county of Hot Springs.

The pre-emption act of May 29, 1830, required that the party claiming under it should be in possession of the land on that day; and the register and receiver at Washington, Arkansas, decided, upon the reference of the claim to them, and upon all the proof, that the said Belding
62 had possession on that day by his tenant, Asa Thompson; which possession one of said officers held did entitle him, and the other held it did not entitle him, to a pre-emption. But the possession of the said Thompson was not the possession of the said Belding, but of the said John Perciful; and the said Belding was not entitled to any pre-emption.

And the said act remained in force one year from its passage, and expired. On the 14th July, 1832, an act passed which provided that persons entitled to a pre-emption under said act of 1830, and not enabled to make proof and entry within the time limited in that act, in consequence of the public surveys not having been made or returned, or for other reasons therein specified, should be permitted to enter the said lands on the conditions, in every respect, as were prescribed in that act, within one year after the survey should be made, &c. The public survey of the section-lines of township two, south of range nineteen west, was completed between the 27th of January and the 27th of February, 1838; and the application of the widow of the said Belding to enter the said land by virtue of the said pretended pre-emption right was made on the 10th of March 1839, and not before.

Wherefore, your petitioner denies the right of the heirs of the said Ludovicus Belding to resist the confirmation of the claim of the said Francis Langlois, and to have vexed, harassed, and delayed the issuance of patent thereon, as since the year 1869 they have done; and he alleges that the said Belding never was entitled to any pre-emption, and never pretended to be, but honestly kept his bargain with the said John Perciful, which his heirs have shamelessly and fraudulently violated; that the said Belding did not cultivate the said land in the

Said Joseph Michel died in 1810, his will being dated the 9th of April, 1810, leaving all his real estate to his three sons, all minors, and constituting his brother-in-law, Robert McCay, executor, with full power to settle and distribute said estate.

Said McCay, as executor of said Michel, to whom Langlois had assigned his New Madrid lands, on the 26th of November, 1818, proved the injury done to the said New Madrid lands by the earthquakes to the satisfaction of the recorder of land-titles at St. Louis, as required by the act of the 17th of February, 1815, and 9th of April, 1818, relinquished to the United States the lands at New Madrid thus injured, which had belonged to said Langlois, and which were sold and conveyed by said Langlois to said Michel in 1805. (See relinquishment.)

68 On this relinquishment, which was approved by the recorder, said McCay, as executor of said Michel, applied for the legal certificate authorizing the survey of the location applied for, and on this application certificate 467 was awarded to the legal representatives of Francis Langlois. (See printed copy in Ex. Doc. No. 70, 1st sess. Senate 31st Cong., directing survey.)

Said executor made several applications for the possession of said certificate, and was put off from time to time by the recorder at St. Louis with no reasonable excuse for non-issue. At length the executor died. The youngest son of said Michel, named Napoleon, died under twenty-one years of age without issue. The two surviving brothers, Joseph and Stephen alias Etienne, heirs of their father and brother, conveyed one-half of the Michel estate, including of course the Hot Springs certificate, to Dr. William W. Gitt, and constituted him attorney for the other half.

There were two collateral heirs of Napoleon Michel on his mother's side, Rosalie Houston and Antonio Lafont. These two conveyed one-half their interest to Dr. W. W. Gitt, and constituted him attorney for the other half.

Afterwards Stephen alias Etienne Michel, heir aforesaid, sold and conveyed to Alexander L. Moreland and W. W. Gitt the half of his interest reserved in the previous sale to Dr. W. W. Gitt. Rosalie Houston, one of the collateral heirs as aforesaid, sold and conveyed to Alexander L. Moreland the half interest reserved in the previous sale to Dr. W. W. Gitt, constituting said Moreland, &c. And the said Moreland sold and conveyed the whole interest in the said Michel estate remaining, including the Hot Springs, to said Dr. William W. Gitt. And for the rest of the interest of Joseph Michel and Antonio Lafont the said Dr. W. W. Gitt has the absolute right. One-half of the whole interest said Dr. W. W. Gitt has sold and conveyed to George Mackay.

The said George Mackay applied at the recorder's office at St. Louis for certificate of the location of this claim, and it was not on file. He then demanded the same of Ex-Recorder Conway, who had refused, while in office, to deliver said certificate to Michel's executor to ascertain the disposition made of it; and said Conway, on the 4th of June last past, informed said G. Mackay that he had delivered the same to his cousin, Henry M. Rector, together with the survey made under it by his kinsman, Conway.

69 The undersigned then sought the origin of said Rector's right to receive and hold said certificate, but there was none in the office of United States recorder of land-titles at St. Louis, where, if any, it should be deposited, but found a copy of an application, dated 19th of February, 1819, signed S. Hammond, Elias Rector, but there was no evidence of title in either of them.

On the records of Hot Springs County there is a power of attorney recorded in 1838 from Francis Langlois to Joseph Story, dated thirteen years after Langlois' sale to Michel, authorizing said Story to sell 200 arpens from "a part" of his land. And on file in the same county there is an assignment from said Story to said Hammond, (see Ex. Doc. 1st sess. 31st Cong., Senate, No. 70, p. 72,) where Story signs himself as attorney in fact of Francis Langlois. This assignment is dated ten months anterior to the date of the power of attorney under which said assignment purports to have been made.

At page 17, Doc. No. 70, before mentioned, the Commissioner of the General Land-Office refers to a conveyance from Story to said Hammond and Elias Rector in the year 1821. The whole of these proceedings are evidently an attempted fraud on the claim of Michel and his representatives.

It will thus be perceived that there is not any attempt made to show any connection between Michel, the assignee of Langlois, or between his executor, McCay, or any of these parties; and Langlois having sold all his right constituting the basis of this Hot Spring location to Michel, had nothing relative thereto to sell or to subject to the care and control of said Story as his attorney. The fact that this pretended sale was made by Story as Langlois' attorney to S. Hammond ten months before he (Langlois) appointed him attorney is conclusive evidence of the whole transaction and its character.

Story afterwards procures a deed from said Langlois, recorded at New Madrid, leaving out in the description the words "a part of," &c., in the power, and inserts a strange name in the warranty falsely purporting to have joined in the deed, which, together with the false signature of Langlois' wife, still further characterizes the fraud.

Ex-Recorder Conway testifies that he delivered the certificate of the location of Langlois' claim to H. M. Rector in the year 1839, one year after the sectional survey of the Hot Springs by the United States. How, then, was it surveyed as a special location by private survey on the 16th of July, 1820?

70 From the inventory of the real estate of Joseph Michel, numbering one hundred and forty plantations, it will be perceived that at No. 62 is a 200-arpen survey conveyed by Louis Tirart to Joseph Michel on the 18th of August, 1804. (Record archive, 1258.)

And your honors are referred to Commissioner Bates' list of relinquishments made to the United States, and opposite to the name of Louis Tirart it will be seen that Joseph Story makes the relinquishment of Michel's 200 arpens of land bought from Tirart. Can anything be more conclusive of Story's fraudulent character?

He may have deemed it prudent and profitable to substitute the Langlois claim for the Tirart, but unfortunately for him he has no foundation to stand on, as already shown, and of course all claiming under him, including Rector, must fall.

The date of the executor's relinquishment to the United States being anterior to any application for any pre-emption on file, it is presumed against a vested right, as in this case pre-emptions have no status before your honors' court.

Finally, from the documentary evidence of the fraud, and the notice to all of a vested right in the legal representatives of Langlois patent at the Hot Springs since previous to 1820, and from the act of Congress of May 31st, 1870, referring to the equitable action of your honors' court, the undersigned prays that the wrong may be discountenanced by which the executor of Michel was withheld from certificate 467 and

consequent survey, and that this petition for a patent on Hot Springs according to the United States survey will be granted to your petitioners, especially as the intention of Congress by the act of 1843 is clearly applicable to this claim, it being the only unpatented claim south of the Arkansas River, and that you will afford such other and further relief as to your honors will appear just and proper.

And, as in duty bound, your petitioners will ever pray.

GEORGE MACKAY,
WILLIAM W. GITT.

Subscribed and sworn to before me this twenty-sixth day of August, A. D. 1870.

[SEAL.] N. CALLAN,
Notary Public.

The post-office address of George Mackay is No. 91 Cedar street, New York; that of William W. Gitt, at the same place.

71 DISTRICT OF COLUMBIA,
City of Washington:

Before me, Nicholas Callan, a notary public in and for the said District, this day came the undersigned, who, being duly sworn, makes oath and says that there has been no assignment or transfer of the claim in the foregoing petition stated, or of any part thereof; that the said claimant is justly entitled to the amount in said petition claimed from the United States, after allowing all just credits and offsets, and that he believes the facts as stated in the said petition are true.

GEORGE MACKAY,
Attorney.

Subscribed and sworn to before me on the 8th day of September, at the city of Washington, D. C.

[SEAL.] NICHOLAS CALLAN,
Notary Public.

72 In the Court of Claims of the United States, December term, 1870.

GEORGE MACKAY ET AL.
vs.
THE UNITED STATES. } No. 6244.

Answer of the United States.—Filed June 17, 1871.

The Attorney-General, for and in behalf of the United States, further answering, by leave of court, the petition therein, saith that he does not know nor has he been informed, save by the claimants' petition, of the several matters or things therein contained, and that he therefore neither admits nor denies the same, but leaves said claimants to prove said matters, as they may be advised. And he further denies that the claimants, by reason of any said matters, have any title, legal or equitable, to the whole or any part of the land claimed in said petition, or to any relief in said premises at the hand of your honorable court. The title to said land he avers, notwithstanding all said matters, to be and remain in the United States, in whose favor he claims the judgment of
73 your honorable court, and further proceedings thereunder as the law in such case directs.

THOMAS H. TALBOT,
Assistant Attorney-General.

74 In the Court of Claims, December term, A. D. 1870.

JOHN H. RUSSELL
vs.
THE UNITED STATES AND HENRY M. RECTOR. } No. 6246. In equity under act of Congress, June 11, 1870.

To the honorable the judges of the United States Court of Claims:

Humbly complaining, your petitioner, John H. Russell, respectfully represents to your honors that one Francis Langlois owned two hundred arpens of land in the county of New Madrid, in what is now known as the State of Missouri, which said land was materially injured by earthquakes, and by virtue of the act of Congress of the 17th of February, A. D. 1815, passed for the relief of persons whose lands had been injured by earthquakes, he was entitled to two hundred arpens of public land elsewhere, and subsequently a title was acquired in lieu thereof to two hundred arpens of land, embracing what is known as the Hot Springs, in the State of Arkansas, by virtue of New Madrid certificate No. 467 and the survey under the same.

That by divers and sundry assignments, deeds, and other muniments of title, Henry M. Rector became the owner of said two hundred arpens of land, embracing the said Hot Springs, and by virtue of a deed from
75 said Henry M. Rector to your petitioner, dated on the 5th day of March, A. D. 1867, he, the said Rector, conveyed to your petitioner all his right and title to said land, and your petitioner is now by virtue thereof entitled to and sole owner of said land. Said deed from Rector to your petitioner is in words and figures following, to wit:

"Know all men by these presents that for and in consideration of the sum of ten thousand dollars ($10,000) to me in hand paid, the receipt whereof is hereby fully acknowledged, I have bargained and sold, and quitted claim, and do hereby quitclaim, unto John H. Russell all my right, interest, and title, of whatever character and description, in and to two hundred arpens of land, equal to one hundred and seventy and fifteen-hundredths acres of land, situated and lying in the county of Hot Spring, in the State of Arkansas, surveyed for Francis Langlois, as per certificate numbered 467, and survey 2903—said certificate numbered 467 issued by Frederic Bates, recorder of land-titles, on the 26th November, 1818, and known as the New Madrid location, covering the Hot Springs—to have and to hold the same to the said John H. Russell, his heirs and assigns; but I do not warrant the title to said land, but only give this as a quitclaim; and witness my hand and seal this 5th day of March, A. D. 1867.

"HENRY M. RECTOR. [SEAL.]

[$10 revenue stamp.]

"In presence of—
"E. RECTOR.
"THOS. H. WALKER.

"STATE OF ARKANSAS,
"*County of Pulaski, sct.:*

"Be it remembered that on this the 5th day of March personally came and appeared before me, clerk of the circuit court in and for said
76 county and State, the above-named Henry M. Rector, and acknowledged that he had signed and sealed the foregoing deed for

the uses and purposes and consideration therein named, and desired me to so certify this the date above written.

"In testimony whereof I hereunto set my hand as such clerk, and affix the seal of my office, in the county and State aforesaid, on the day and year last aforesaid.

[SEAL.] "THOS. H. WALKER, *Clerk.*

"STATE OF ARKANSAS,
"*County of Hot Spring:*

"I, Hugh McCallum, clerk of the circuit court and ex-officio recorder in and for said county and State, do hereby certify that the within deed was filed for record in my office on the 7th day of March, A. D. 1867, and the same, with the certificate and acknowledgment thereon, is now duly recorded in record-book G, page 468.

"In testimony whereof I hereunto set my hand and affix the seal of said court this, the 7th day of March, A. D. 1867.

[SEAL.] "HUGH McCALLUM,
"*Clerk and Ex-officio Recorder.*"

By virtue of these premises, and an act of Congress entitled "An act in relation to the Hot Spring reservation in Arkansas," which became a law on the 11th of June, 1870, your petitioner respectfully prays your honors to grant, order, and decree your petitioner the owner of said two hundred arpens of land, located by New Madrid certificate No. 467, embracing said Hot Springs, and that your honors will order proper process to put your petitioner in possession of said land.

Your petitioner further prays that notice of this suit may be
77 given to the honorable Attorney-General of the United States, as provided by the 3rd section of the said act of Congress entitled "An act in relation to the Hot Springs reservation in Arkansas," and that the United States be made a party defendant hereto; and it is also prayed that Henry M. Rector be made a party defendant, and that due and sufficient notice, by proper process, be given him of the pendency of this suit.

Your petitioner prays for such other and further relief as may be according to equity in the premises; and, as in duty bound, your petitioner will ever pray, &c.

JOHN H. RUSSELL,
By WARD H. LAMON,
His Solicitor.

Filed September 1st, 1870.

DISTRICT OF COLUMBIA,
City of Washington:

Before me, James H. Causten, a notary public in and for said District, this day came the undersigned, who, being duly sworn, makes oath and says that there has been no assignment or transfer of the claim in the foregoing petition stated, or of any part thereof; that the said claimant is justly entitled to the amount in said petition claimed from the United States, after allowing all just credits and offsets, and that he believes the facts as stated in said petition are true.

JOHN H. RUSSELL.

Subscribed and sworn to before me on the 8th day of September, at the city of Washington, D. C.

JAMES H. CAUSTEN,
Notary Public.

78 *Motion for leave to file amended petition.*

In the United States Court of Claims.

JOHN H. RUSSELL
vs.
THE UNITED STATES. } No. 6246.

And now, on this eighth day of November, comes petitioner and claimant, by his solicitors, and moves the court for leave to file an amended petition in the above-entitled cause, said amended petition being hereto annexed.

WARD H. LAMON,
T. LYLE DICKEY,
Solicitors.

Filed Nov. 8, 1870.
Allowed December 12, 1870.
By the court.

79 *Amended petition.—Filed Dec.* 12, 1870.

In the United States Court of Claims, December term, 1870.

JOHN H. RUSSELL
vs.
THE UNITED STATES AND HENRY M. RECTOR. } No. 6246.

John H. Russell, petitioner and claimant, presents to the said Court of Claims, by leave of the court, this his amended petition, and thereby shows to the said honorable court that he is now justly and in equity the owner of two hundred arpens of land, equal to one hundred and seventy and $\frac{15}{100}$ acres of land, situate and lying in the county of Hot Springs, in the State of Arkansas, (being part of the Hot Springs reservation in the State of Arkansas,) as heretofore surveyed in the form of a square, and including the Hot Springs of Ouachita, having filed his original petition therefor with the clerk of the said Court of
80 Claims, on the first day of September, A. D. 1870, under the act of Congress which became a law on the 12th day of June, A. D. 1870, entitled "An act in relation to the Hot Springs reservation in Arkansas."

Your petitioner, in support and maintenance of his claim to said tract of land, in addition to allegations of the original petition, doth allege, aver, and state the facts following, that is to say, that large bodies of land in the county of New Madrid, in the Territory of Missouri, having been materially injured by earthquakes, Congress passed an act which became a law February 17th, 1815, in substance as follows, to wit:

"An act for relief to inhabitants of New Madrid, Missouri Territory.

"SEC. 1. That any person or persons owning land in the county of New Madrid, in the Missouri Territory, with the extent the said county had on the tenth day of November, one thousand eight hundred
81 and twelve, and whose lands have been materially injured by earthquakes, shall be, and they hereby are, authorized to locate the like quantity of land on any of the public lands of the said Territory, the sale of which is authorized by law: Provided, That no

person shall be permitted to locate a greater quantity of land under this act than the quantity confirmed to him, except the owners of lots of ground or tracts of land of less quantity than one hundred and sixty acres, who are hereby authorized to locate and obtain any quantity of land not exceeding one hundred and sixty acres. Nor shall any person be entitled to locate more than six hundred and forty acres, nor shall any such location include any lead mine or salt spring: And provided also, That in every case where such location shall be made according to the provisions of this act, the title of the person or persons to the land injured as aforesaid shall revert to and become absolutely vested in the United States.

82 "SEC. 2. That whenever it shall appear to the recorder of land-titles for the Territory of Missouri, by the oath or affirmation of a competent witness or witnesses, that any person or persons are entitled to a tract or tracts of land under the provisions of this act, it shall be the duty of the said recorder to issue a certificate thereof to the claimant or claimants, and upon such certificate being issued and the location made on the application of the claimants by the principal deputy surveyor for said Territory, or under his direction, whose duty it shall be to cause a survey thereof to be made, and to return a plat of each location made to the said recorder, together with a notice in writing designating the tract or tracts thus located and the name of the claimant on whose behalf the same shall be made, which notice and plat the said recorder shall cause to be recorded in his office, and shall receive

83 from the claimant for his services on each claim the sum of two dollars for recording the proof, issuing the certificate, and recording the notice and plat as aforesaid, and the surveyor shall be entitled to the same compensation for his services from the party applying as is allowed for surveying the public lands of the United States.

"SEC. 3. That it shall be the duty of the recorder of land-titles to transmit a report of the claims allowed and locations made under this act to the Commissioner of the General Land-Office, and shall deliver to the party a certificate stating the circumstances of the case, and that he is entitled to a patent for the tract therein designated, which certificate shall be filed with the said recorder within twelve months after date, and the recorder shall thereupon issue a certificate in favor of the party, which certificate being transmitted to the Commissioner of the

84 General Land-Office, shall entitle the party to a patent, to be issued in like manner as is provided by law for other public lands of the United States.

"Approved February 17th, 1815."

Your petitioner further shows that, on the 10th day of November, 1812, one Francis Langlois was the owner of a tract of land containing two hundred arpens of land in said county of New Madrid, which was materially injured by earthquakes, and by reason of said act of Congress became and was authorized to locate the like quantity of land on any of the public lands of the said Territory of Missouri the sale of which was authorized by law, and that, on the 26th day of November, A. D. 1818, the said Francis Langlois being so authorized as aforesaid, did, by his attorney in fact, on' Joseph Story, thereto duly empowered and authorized, make it appear to the recorder of land-titles for the Territory of Missouri, by the testimony of competent witnesses, that the

85 said Francis Langlois was entitled to a tract of land, (containing two hundred arpens, or $170\frac{14}{100}$ acres,) under the provisions of said act of Congress of February 17, 1815, and thereupon the said recorder

did issue a certificate thereof to said Francis Langlois, and to his said attorney in fact, Joseph Story, did deliver the same, which certificate was dated on the 26th day of November, A. D. 1818, and numbered 476, by which said recorder certified in substance that upon proper proof made to him it appeared to him that under said act of Congress said Francis Langlois, or his legal representatives, were entitled to locate two hundred arpens of land on any of the public lands of the Territory of Missouri the sale of which was authorized by law, and the said recorder of land-titles did, at the same time and as a condition to the granting his said certificate, require a release and relinquishment to the
86 United States, by and from the said Francis Langlois, of his said tract of land, so injured by earthquakes as aforesaid, in said county of New Madrid aforesaid, and said Francis Langlois, by his said attorney in fact, thereto duly authorized, (Joseph Story,) did then and there, by deed of that date, properly execute, release, relinquish, and convey to the United States the said injured tract of land, receiving therefor in exchange the said certificate No. 467.

Your petitioner, John H. Russell, further states that, prior to the 27th day of January, A. D. 1819, said certificate No. 467, and the claim and right of said Francis Langlois to locate said two hundred arpens of land therein mentioned, was by proper assignments and conveyances sold and transferred to one Samuel Hammond and Elias Rector, so that on that day the said Samuel Hammond and Elias Rector
87 did own and possess said certificate No. 467, and were entitled to and possessed of all the rights and privileges of the said Francis Langlois in relation to the location of said two hundred arpens of land, and had the right to have the same located for their use, and to use the name of the said Francis Langlois in any proper way to accomplish that end.

Your petitioner further represents that, on the 27th day of January, A. D. 1819, the said Samuel Hammond and Elias Rector made written formal notice and application to the then surveyor, or principal deputy surveyor, or surveyor-general of the public lands for the State of Illinois and Territory of Missouri, one William Rector, for the entry or location of two hundred arpens of land, to satisfy said certificate No. 467, to be surveyed in a square tract, the lines of which to be cor-
88 responding with the cardinal points, and to include the Hot Springs, so called, upon the waters of the Ouachita River, south of the river Arkansas, the said springs to be as near the centre of the square as circumstances would admit, and they thereby solicited an order of survey and directions agreebly to said notice; the said springs so to be included being those generally known as the largest and most resorted to upon that river.

Which notice of selection, and location, and application for a survey was that day filed in the office of said public surveyor, William Rector, and he did thereupon grant and issue an order of survey in accordance wiah the said notice and application, directed to James S. Conway, who was then deputy surveyor in the service and employment of the United States, duly qualified as such, (and who being at that time at St.
89 Louis was willing to make the said survey, being paid therefor by the said Samuel Hammond and Elias Rector,) and by said order of survey so issued and granted, the surveyor-general required and directed said Conway to survey said tract of land applied for in accordance with the application, describing it as the land due upon certificate No. 467.

Your petitioner further shows that said James S. Conway, as deputy

surveyor for the United States, and in compliance with said order of survey, did proceed to the region of country south of the river Arkansas, embracing the said Hot Springs, all of which region was, on the 17th of February, 1815, embraced in the Territory of Missouri, and there did make a survey, and did survey and mark off the land so selected (by said Hammond and Rector, under said certificate, No. 467,) in the manner specified in said application, that is, in a square
90 form, including the said Hot Springs; the square so surveyed and laid out containing one hundred and seventy acres and fourteen hundredths of an acre, being equal to two hundred arpens of land, which land so surveyed was bounded as follows, that is to say:

"Beginning at a post, from which a pine, ten inches in diameter, (marked thus, H and R,) bore south 47° east 8 links; thence south 7 chains, a creek 15 links wide, east, at 41 chains 25 links set a post, from which a pine, 15 inches in diameter, bore north 47½° east 23 links; thence east 19 chains 25 links to Hot Springs Creek, 25 links wide, runs south, at 41 chains 25 links set a post, from which a post-oak, 10 inches in diameter, bore south 62° west 16 links; thence west 41 chains 25 links to the beginning."

The bearing-trees and others being marked in the mode usual
91 with surveyors of public lands, distinctly and legibly, so that the lines so run should be easily ascertainable, and they are in part ascertainable still.

Your petitioner further shows that, after so making said survey, the said deputy surveyor, on the 16th day of July, 1820, made out a plat and descriptive statement of the said land so surveyed, the said plat and statement being numbered "survey No. 2903, certificate No. 467," which statement gave the lines, courses, and distances and bearings as above, and the said plat showing the length and direction of the lines of each side of the square, the creeks and their courses, the variation of the compass, the locality of the springs, and having upon it the description, "No. 467, Francis Langlois, 200 arpens—170.14 acres."

92 Your petitioner further shows that said James S. Conway, deputy surveyor as aforesaid, made out said plat-notes of survey or descriptive statement of said tract, location, and survey in triplicate, each in his own handwriting, and signed by him as such deputy surveyor, one of which he deposited on said 16th day of July, 1820, or immediately thereafter, in the office of the surveyor-general, at St. Louis, and the other two he delivered to said Samuel Hammond and Elias Rector.

Your petitioner further shows that said plat and notes of survey so deposited in the office of the surveyor-general was received by him, and by his order entered and placed upon the register of surveys of private claims in his said office.

Your petitioner further shows that, after the 24th day of Febru-
93 ary, 1821, and before the 9th of August, 1822, said New Madrid certificate No. 467, and the rights and interests accruing or arising from the same, and from the location thereof, became the sole property of the said Elias Rector, by sale and proper conveyance from said Samuel Hammond and his wife Eliza, made to said Elias Rector.

Your petitioner further shows, upon said certificate being issued by the recorder of land-titles as aforesaid, and the said location being made as aforesaid, on the application of the claimant, by said deputy surveyor, or under his direction, it became and was the duty of said principal deputy surveyor of the United States for that Territory to return a plat of such location so made to the recorder, together with a notice in writing designating the tract so located and the name of the

94 claimant, that the said recorder of land-titles might, according to the statute, cause said plat and notice to be recorded in his office, and might also transmit a report of the allowance of the claim and the location made under it to the Commissioner of the General Land-Office, and that said recorder might also deliver to the proper party a certificate stating the facts of the case, and that he was entitled to a patent for the tract so located. Yet your petitioner shows that though said certificate No. 467 was duly issued by the recorder of land-titles for the Territory of Missouri, and though the said survey and location of said land was duly made under said certificate by a proper and qualified deputy surveyor, under the direction of the principal deputy surveyor for the said Territory of Missouri, and a return of said survey and plat, and said location of said tract of land was duly
95 made to the office of said surveyor-general at St. Louis, in whose district said land lay; yet your petitioner shows unto your honors that the said surveyor-general refused and neglected to return a plat of said location so made to the recorder of land-titles, together with a notice in writing designating the tract thus located and the name of the claimant on whose behalf said location was made, so that said recorder could cause the same to be recorded in his office, and transmit a report of the same to the Commissioner of the General Land-Office, and so that the said recorder could deliver to the said parties in whose behalf said survey and location was made a certificate, stating the circumstances of the case, and that they were entitled to a patent for the tract therein designated, and thereby enable the parties, upon the presentation
96 of said certificate, to procure a patent for the same.

Your petitioner insists that, by reason of the facts above stated, said Samuel Hammond and Elias Rector became entitled to the land described in said survey, and acquired the right, both legally and equitably, to have all the necessary steps taken by the proper officers of the United States to perfect their title to said lands, and to give them proper evidence of said title by the issue of a patent from the United to them for said land.

Your petitioner further shows that if the right to said land thus claimed for said Samuel Hammond and Elias Rector were at all questionable, all difficulties in their way were subsequently removed by the legislation of Congress hereinafter set forth.

97 Your petitioner further shows that by an act of Congress approved April 26, 1822, entitled "An act to perfect locations of land in Missouri Territory," it was provided—

"That the locations heretofore made of warrants issued under the act of the fifteenth of February, one thousand eight hundred and fifteen, entitled 'An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by the earthquakes,' if made in pursuance of the provisions of that act in other respects, shall be perfected into grants, in like manner as if they had conformed to the sectional or quarter-sectional lines of the public surveys, and the sales of fractions of the public lands heretofore created by such location shall be as valid and binding on the United States as if such frac-
98 tions had been made by rivers or other natural obstructions.

"SEC. 2. That hereafter the holders and locators of such warrants shall be bound in locating them to conform to the sectional or quarter-sectional lines of the public survey as nearly as the respective quantities of the warrants will admit. And all such warrants shall be located within one year after the passage of this act, in default whereof the same shall be null and void.

"Approved April 26, 1822."

Your petitioner further shows that by an act of Congress approved March 2d, 1827, entitled "An act supplementary to the act of April 26, 1822," it was enacted—

"An act supplementary to the act of April 26, 1822.

"That the location of lands heretofore made according to law, by virtue of warrants issued under the act of Congress passed the 17th day
99 of February, 1815, for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes, in lieu of lots and out-lots in and adjacent to the villages of New Madrid and Little Prairie, and not exceeding six hundred and fifty acres in the whole to any one sufferer, shall be perfected into grants in the manner prescribed by the last-mentioned act of Congress, any construction thereof to the contrary notwithstanding.

"Approved March 2, 1827."

Your petitioner further shows that by an act of Congress approved March 1st, 1843, entitled "An act to perfect titles to lands south of Arkansas River, under New Madrid locations," it was enacted—

"That the locations heretofore made of warrants issued under
100 the act of the seventeenth of February, 1815, entitled 'An act for the relief of the inhabitants of the late county of New Madrid, in Missouri Territory, who suffered by earthquakes,' of those locations which were made on the south side of the Arkansas River, if made in pursuance of the provisions of that act in other respects, shall be perfected into grants in like manner as if the Indian title to the lands on the south side of said river had been completely extinguished at the time of the passage of said act.

"SEC. 2. That in all cases in which the locations so made on the south side of the Arkansas River may have been sold, and the lands thus located under the act aforesaid have been appropriated by the United States, the owner of the warrants issued under the provisions of the act aforesaid shall have a right to enter, within twelve months after the passage of this act, without payment, the like quatity
101 of the public lands of any of the unappropriated and unimproved lands in the State of Arkansas corresponding with the legal sub division.

"SEC. 3. That every settler on the public lands south of the Arkansas River shall be entitled to the same benefits accruing under the provisions of the pre-emption act of 1814, [1815,] as though they had resided north of said river.

"SEC. 4. That all Cherokee pre-emptions which have been or may be located upon any of the surveyed lands of the United States south of the base-line in Arkansas shall be confirmed, and patent shall issue thereon as in other cases.

"Approved March 1st, 1843."

Your petitioner further shows that in the year 1820 lands south of the Arkansas River and west of the reservation for the Quapaws,
102 made by the treaty of August 24, 1818, and which in February, 1815, were in the country to which the Quapaw title had not then been extinguished, had been or were surveyed according to law, and that on the 13th of June, 1823, the President proclaimed a sale of public lands south of the Arkansas River to be had on the third Monday of October, 1823.

And that by the act of Congress of March 2, 1819, the southern part of

the Territory of Missouri became (after the 4th day of July, in that year) the Territory of Arkansas; and that when the said survey was made of the land claimed by petitioner, said land lay within the Territory of Arkansas, and the government of the Territory had been established, and the sale of all the lands to which the Quapaw title had been extinguished was authorized by law, to wit, by the act of February 17, 1818.

Your petitioner further shows that Elias Rector, being the owner
103 as above stated of said certificate No. 467 and of all the rights and equities growing out of the issuing of the same, and arising from the location thereof upon the tract of land aforesaid, embracing the said Hot Springs, in the month of August, 1822, died at St. Louis, leaving a widow and three children, of whom Henry M. Rector was one, and is now the sole survivor, his mother and the other two children having died without heirs of their body; and that by the last will and testament of said Elias Rector, made on the 9th day of August, 1822, he devised to his said wife an estate for life in all his property, real and personal, leaving the same to descend, according to the law of the place where it was situate, upon her death, and that by the law of the place where said land lies, said land descended to the said Henry M. Rector, and that he thereby became the owner thereof.

104 Your petitioner further shows that on the 5th day of March, 1867, the said Henry M. Rector sold, and by a deed of that date conveyed to your petitioner, John H. Russell, all his right and title to said land embraced in said survey, which deed from said Henry M. Rector is in the words and figures following, to wit:

"Know all men by these presents that for and in consideration of the sum of ten thousand dollars, ($10,000,) to me in hand paid, the receipt whereof is hereby fully acknowledged, I have bargained and sold, and quitted claim, and do hereby quitclaim unto John H. Russell all my right, interest, and title of whatever character and description in and to two hundred arpens of land, equal to one hundred and seventy and fifteen hundredths acres of land, situated and lying in the county of Hot Springs, in the State of Arkansas, surveyed for Francis
105 Langlois, as per certificate numbered 467, and survey 2903, said certificate numbered 467, issued by Frederic Bates, recorder of land-titles, on the 26th November, 1818, and known as the New Madrid location, covering the Hot Springs, to have and to hold the same to the said John H. Russell, his heirs and assigns; but I do not warrant the title to said land, but only give this as a quitclaim; and witness my hand and seal this 5th day of March, A. D. 1867.

"HENRY M. RECTOR. [SEAL.]

[$10 revenue stamp.]

"In presence of—
"E. RECTOR.
"THOS. H. WALKER."

Your petitioner relies upon every allegation contained in his original petition, whether repeated in this amended petition or not.

106 Your petitioner further shows that said Samuel Hammond and Elias Rector were legally and in equity the owner of said tract of land claimed by your petitioner in this petition, and described in said plat and survey made by said James S. Conway in 1820, until some time in 1821 or 1822, when said Hammond sold his interest in the same to said Elias Rector;

and that said Elias Rector thereby became the sole owner of said land and said equitable rights thereto, and so continued until the time of his death, in August, 1822, when the said land and equities became the property of the widow of said Elias Rector for her life, and she continued to be possessed of said land, and the right thereto, and said equitable rights thereto, and continued to own the same until her
107 death, which occurred in 1852, and from that time until the 5th day of March, A. D. 1867, said land and the said equitable rights thereto belonged to said Henry M. Rector; and from said 5th day of March, 1867, the same has been claimed as the property of your petitioner, as aforesaid.

Your petitioner further shows that the fullest notice of the title of the said Hammond and Elias Rector, as aforesaid, and of the title of said Elias Rector, and of the title of the widow and heirs of said Elias Rector, and of the title of said Henry M. Rector, and of the title of your petitioner, as above set forth, has ever been fully given by proper acknowledgments and record of the several muniments of title in the proper offices, and by possession of said property, or a part thereof, claiming title to the whole of said land, begun about the year 1838.

Your petitioner further shows that those under whom he claims
108 title have constantly, from the year 1820 to the present time, sought to procure a patent from the United States for said land, but that their right thereto has been questioned, and the granting of such patent repeatedly refused by the officers of the United States whose duty it was to issue such patent, the details of which will be shown in proof.

Your petitioner prays that upon the hearing of this petition your honors may decree that your petitioner is entitled to said two hundred arpens of land, equal to one hundred and seventy $\frac{14}{100}$ acres, embracing said Hot Springs and described in said survey by said James S. Conway, and that a patent shall be issued to your petitioner for the same; and that your petitioner, by some proper process, be put in the peaceable possession of the same; and that your petitioner may have
109 such other and further relief as may be proper in this proceeding.

JOHN H. RUSSELL,
By WARD H. LAMON AND
T. LYLE DICKEY,
His Solicitors.

DISTRICT OF COLUMBIA,
Washington City, ss:

John H. Russell, the petitioner in the foregoing amended petition, being duly sworn, says on oath that he has heard the foregoing petition read to him, and that the statements thereof, so far as they are alleged to be upon his personal knowledge, are true in substance and fact, and that the other statements of said petition he believes to be true.

JOHN H. RUSSELL.

Sworn to and subscribed at Washington City before me, this eighth day of November, A. D. 1870.

[SEAL.]

JOHN RANDOLPH,
Ass't Clerk Court of Claims.

110 In the Court of Claims of the United States, December term, 1870.

JOHN H. RUSSELL
vs.
THE UNITED STATES. } No. 6246.

Answer of the United States.—Filed June 17, 1871.

The Attorney-General, for and in behalf of the United States, further answering, by leave of court, the petition therein, saith that he does not know nor has he been informed, save by the claimant's petition, of the several matters or things therein contained, and that he therefore neither admits nor denies the same, but leaves said claimant to prove said matters as he may be advised; and he further denies that the claimant, by reason of any said matters, has any title, legal or equitable, to the whole or any part of the land claimed in said petition, or to any relief in said premises at the hand of your honorable court. The title to said land he avers, notwithstanding all said matters, to be and remain in the United States, in whose favor he claims the judgment of your honorable court, and further proceedings thereunder as the law in such case directs.

THOMAS H. TALBOT,
Assistant Attorney-General.

111 U. S. Court of Claims, December term, 1869.

HOT SPRINGS OF ARKANSAS.

WILLIAM H. GAINES AND HIS WIFE, MARIA Gaines, (formerly Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus Belding, deceased,
vs.
THE UNITED STATES. } 6208. Filed Aug. 23, 1870.

Claiming the southwest quarter of section twenty-three, in township two south, of range nineteen west, in the Washington land-district, Arkansas, under the pre-emption act of 29th May, 1830.

The petition of your orator respectfully submits for your consideration and decision the claim of the heirs of Ludovicus Belding, above mentioned, to the southwest quarter of section thirty-three, in township two south, of range nineteen west, Washington land-district, Arkansas, under the pre-emption act of 29th May, 1830, (vol. 4, p. 420,) under and in accordance with the provisions of an act of Congress, No. 80, entitled "An act in relation to the Hot Springs reservation in Arkansas," received by the President 31 May, 1870, and not having been returned by him within the time prescribed, became a law without his approval.

The act of 29th May, 1830, granted a pre-emption right to every settler or occupant of the public lands prior to the passage of that act who was in possession at the date of it and cultivated any part of said land in 1829.

Ludovicus Belding cultivated a part of the quarter-section above described in 1829, and was in actual possession, by residence on the land

and cultivating it, on the 29th May, 1830, as shown by the testimony. (Doc. A.)

NOTE.—All docs. referred to are in the testimony herewith submitted.

Being a settler on this land, and having complied with all the
112 requirements of this act, he was entitled to enter this quarter-section of public land by paying $1.25 per acre for it, as it had not then been reserved for the use of the United States or either of the several States.

This land was not then surveyed, and of course Mr. Belding could not give the official technical designations of the land to which he was entitled; and to relieve just such cases a supplemental act was passed by Congress on the 14 July, 1832, (vol. 4, p. 603,) which provided "that all the settlers and occupants upon the public lands of the United States who are entitled to pre-emption according to the provisions of the act of Congress approved the 29th May, 1830, and who have not been or shall not be enabled to make proof and enter the same within the time limited in said act in consequence of the public surveys not having been made and returned, * * * the said occupants shall be permitted to enter said lands on the same conditions, in every respect, as are prescribed in said act, within one year after the surveys are made," &c.

The subdivisions and south boundary of this township were surveyed in the first quarter of 1838, and the plat of the survey of the township was certified by the surveyor-general on the 30th April, 1838, and a copy of it sent to the General Land-Office with surveyor-general's letter of 26th June, 1838.

The heirs of Belding proved up his pre-emption and tendered the purchase-money for the land on the 7th March, 1838, as shown by doc. A, being within the year after the land was surveyed and returned. Having thus done and performed all they were required to do under both these laws, or rather under this act of 29th May, 1830, and this extension of it of 14 July, 1832, the contract is completed and Belding's heirs are entitled to the land.

By the 3d section of the act of 20th April, 1832, entitled "An act to authorize the governor of the Territory of Arkansas to lease the salt springs, in said Territory, and for other purposes," (vol. 4, p. 505,) it was directed "that the Hot Springs, in said Territory, together with four sections of land including said springs, as near the centre thereof as may be, shall be reserved for the future disposal of the United States, and shall not be entered, located, or appropriated for any other purpose whatever."

113 It will be perceived that this act reserves this land, not for public uses of any kind, but only for the future disposal of the Government; and taking the pre-emption act of 29th May, 1830, this act and the act of 14 July, 1832, and construing them as in pari materia, there can be no doubt that the act of 14 July, 1832, made the future disposal of this land contemplated by the 3d section of the act of 20th April, 1832.

In consequence of this act of 20th April, 1832, and several other claims being alleged to this land, which will be noticed hereafter, no definite action was had on this claim of Belding's heirs till the 23d October, 1850, when the General Land-Office instructed the land-office at Washington, Arkansas, to have a rehearing of the said claim of Belding's heirs. This rehearing was had of the testimony against as well as in favor of the claim, and on the 13th Feb'y, 1851, the receiver made a

report in which he states that Ludovicus Belding cultivated this land in 1829, and occupied, possessed, and cultivated it in 1830, and on the 29th May of that year, but suggests the absurd supposition, that that cultivation and possession was as tenant of one Percifull, and therefore enured to the benefit of said Percifull; a theory that has always been scouted by the Land Department, and that would entirely undermine the land system. The Government is the only landlord, and entirely ignores the existence of any intervening right between it and the actual settler.

The register, on the 22d March, 1851, made a report on said re-investigation, in which he states that "upon due consideration of the testimony produced before the register and receiver adverse to said claim, it is, in my opinion, clearly proven that the said Ludovicus Belding did cultivate on the southwest quarter of section thirty-three (33) in township two (2) south, of range nineteen (19) west, in the year 1829, and that he had possession of the same on the 29th of May, A. D. 1830, as required by the first section of the pre-emption law approved 29th of May, 1830." (For certified copy of this and the receiver's report see Doc. B.)

On the 26th August, 1851, the Commissioner of the General Land-Office, in a report to the Secretary of the Interior on the action of the district land-officers above mentioned, states that "in reference
114 to the pre-emption claim of Belding under the act of 1830, both officers agree as to the cultivation in 1829 and possession on 29th May, 1830, the register unqualifiedly deciding upon the testimony furnished that such cultivation and possession was fully established and in a manner to entitle the party to the right claimed; whilst the receiver, though agreeing as to the performances of these acts by Belding, is of opinion they were done by him as the tenant of another.

"This Office is of opinion that the judgment of the register is the correct one in the matter, the testimony taken, in connection with all the acts of the claimant, being such as to negative the idea of Belding's acting as the mere agent or lessee of another in what he may have done upon the land, and in the absence of all authority to recognize the right or power in any individual to lease the public land to another, acts performed in accordance with the requisitions of the law and made the basis of a right under it should be regarded as inuring to the benefit of the person performing them wherever there is good ground to believe that the animus directing and controlling those acts was, in good faith, to acquire whatever rights or benefits might accrue therefrom, as a settler or occupant of the public lands." (See Doc. C.)

On this report, A. H. Lawrence, esq., who was then attorney for Belding's heirs, prayed, for the reasons given, that those heirs should be permitted to enter and pay for the land thus claimed by pre-emption. (See Doc. D.)

This application was referred by the Secretary of the Interior to Attorney-General Crittenden, who endorsed on it: "It seems to me that it would be proper, and in accordance with precedent, to instruct the register and receiver to admit Belding's heirs to make the usual entry on this claim upon the usual terms," &c. (See Doc. E.)

On this opinion, and after full consideration of this application of Lawrence, attorney for Belding's heirs, the Secretary of the Interior, on the 21st November, 1851, instructed the Commissioner of the General Land-Office to direct the local land-officers to permit the entry by Belding's heirs of the southwest quarter of section thirty-three, township two south, range nineteen west, under the pre-emption act of 29th May, 1830, by virtue of the cultivation in 1829, and continued occupancy, set-

tlement, and cultivation in 1830, of their ancestor, Ludovicus Belding. (See Doc. F.)

Thus we have the decision of the district land-officers that
115 Ludovicus Belding was in possession of this land on the 29th May, 1830; that he was a settler or occupant of it prior to that date; and that he cultivated a portion of it on the 29th May, 1830; in other words, that he had complied with all the conditions of settlement and cultivation required by the pre-emption act of 29th May, 1830. Such finding has always been considered as final and conclusive, as the 3d section of that act requires that "proof of settlement or improvement shall be made to the satisfaction of the register and receiver of the land-district in which such lands may lie," &c.

By the 11th section of the act of 4th September, 1841, "to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," appellate and revisory powers in all pre-emption cases are conferred on the Secretary of the Treasury and transferred to the Secretary of the Interior by the 4th section of the act of 3d March, 1849, "to establish the home department," (vol. 9, p. 395,) and similar powers are granted to the Commissioner of the General Land-Office, subject to the revision of the Secretary of the Interior by the 10th section of the act of 12 June, 1858. (Vol. 11, page 326.)

And thus we have the decision of the Commissioner of the General Land-Office and Secretary of the Interior under full sanction and authority of law that Belding's heirs are entitled to pre-emption to the land they claim under the act of 29th May, 1830.

Under the instructions of the Secretary of the Interior aforesaid of 21st November, 1851, the General Land-Office, on the 25th November, 1851, instructed the local land-officers at Washington, Arkansas, to permit the heirs of Ludovicus Belding to enter this land under the pre-emption act of 29th May, 1830; and on the 19th December, 1851, those land-officers did permit said entry, as per receipt and certificate of that date herewith. (Doc. G and H.) And we now pray as an act of equity and justice that you will decree that a patent shall issue to us on said certificate for the land therein described, and give such other and further relief as to your honors will appear just and equitable.

JOHN WILSON,
HUGHES, DENVER & PECK,
Per JOHN WILSON,
Attorneys for Belding's Heirs.

116 Subscribed and sworn to before me by the above-named John Wilson this twenty-third day of August, A. D. 1870.

[SEAL.] N. CALLAN,
Notary Public.

The address of John Wilson and of Hughes, Denver & Peck is Washington City, D. C., and of Belding's heirs is Hot Springs, Arkansas.

ALBERT BELDING.

Subscribed and sworn to before me by Albert Belding, one of the heirs of Ludovicus Belding, this twenty-fourth day of August, A. D. 1870.

[SEAL.] N. CALLAN,
Notary Public.

GENERAL LAND-OFFICE, *August* 27, 1870.

I, Jos. S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed copies of papers connected with the case of "Hot Springs," Arkansas, except the letters and words inclosed in brackets ([ ]), are true and literal exemplifications from the files of this Office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land-Office.

[Examined.] HOT SPRINGS, ARKANSAS, *November* 18, 1841.

To the Commissioner of the General Land-Office at Washington City, D. C.:

DEAR SIR: Enclosed you will find the proof of a pre-emption right to the Hot Springs, in this State. The depositions enclosed are a copy from the original on file at Washington, Arkansas, certified by D. S. Witter, receiver, and recorded in the clerk's office at this place. The 117 claim has not been acted upon at the Washington land-office on account of older claims, which have not been disposed of, also claiming the springs; and therefore this claim was merely filed to be acted upon at some future time. It is, however, understood that these older claims are invalid. In which case it is desired that this claim may be acted upon. I have requested Hon. Saml. McRoberts to examine and attend to whatever may be necessary in relation to this claim. The claim is in favor of the heirs of Ludovicus Belding, deceased, and I am authorized by the widow, Mrs. Lydia Belding, to do anything which may be necessary in relation to this claim. I should be glad to know if anything desirable may be done in the matter. Please file the papers relating thereto in your Office and write me on the subject.

Respectfully,

LAWSON RUNYON.

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Springs:

Pre-emption right.—Lydia Belding, in right of her husband, Ludovicus Belding, deceased.

MARCH 7TH, 1839.

Personally appeared before me, A. N. Sabin, a justice of the peace, Lydia Belding, and, being first sworn for the purpose, deposeth and saith that she and her said husband were living at the Hot Springs in February, A. D. 1828, on the southwest quarter of section 33, township 2 south, range 19 west, or rather on the west half of the said section 33, as it is presumed that a legal subdivision of the said section 33 will leave the dwelling-house on the southwest quarter of the said section 33 and the cultivated ground on the northwest quarter of the same section, (33.)

And further this deponent sayeth that, living on the west half of said section 33 in February, A. D. 1828, she and her said husband continued to live at the same place throughout the whole of the year A. D. 1829; and that she and her said husband had ground enclosed with a fence, wherein they ploughed and cultivated corn, potatoes, peas, beans, &c., &c., in the year A. D. 1829.

And further this deponent sayeth that although her said husband leased many privileges in the Hot Springs Valley to Asa Thompson in February, A. D. 1830, yet still she and her said husband reserved
118 two houses for their own use, which two said houses she and her said husband had in their possession throughout all the month of May, A. D. 1830, and until August, 1830; and one of the said houses she and her said husband continued to keep possession of throughout all the year A. D. 1831, and so on until it rotted away.

And further this deponent sayeth not.

LYDIA BELDING.

Done before me this 7th of March, 1839.

A. N. SABIN, *J. P.*

At the above date personally appeared before me, A. N. Sabin, a justice of the peace, Samuel Sentor, and, first being sworn for this purpose, stated on oath that L. Belding resided in the Hot Spring Valley on the 2d day of May, A. D. 1829, and that he, L. B., cultivated the ground and resided there throughout all the summer and winter of A. D. 1829; and although L. Belding moved his family from the valley in the spring of 1830, yet still L. Belding reserved two houses for his own use, which said two houses was in the use and possession of Ludovicus Belding throughout all the summer of 1830.

And further this deponent sayeth not.

SAMUEL SENTER.

Done before me March 7th, 1839.

A. N. SABIN, *J. P.*

At this date, March 7th, 1839, personally appeared before me, A. N. Sabin, a justice of the peace, William Davis, and, first being sworn for the purpose, stated on oath that he (witness) ploughed the ground in the Hot Spring Valley in the spring of the year A. D. 1829 for Ludovicus Belding to plant, cultivate, &c., and that he (witness) was paid for his work and ploughing by L. Belding.

And further deponent sayeth not.

his
WILLIAM + DAVIS.
mark.

Done before me March 7th, 1839.

A. N. SABIN, *J. P.*

At this date, March 7th, 1839, personally came before me, A. N. Sabin, a justice of the peace, Johnathan Bassett, and, being first sworn
119 for the purpose, deposeth and sayeth that the foregoing deposition of Lydia Belding is essentially and entirely the truth, as of his own certain knowledge.

And further this deponent sayeth not.

JOHNATHAN BASSETT.

Done before me March 7th, 1839.

A. N. SABIN, *J. P.*

I, A. N. Sabin, hereby certify that all the foregoing witnesses are of the first respectability in our land, and their testimony in this case is entitled to full credit.

March 7th, 1839.

A. N. SABIN, *J. P.*

We, whose names are hereunto subscribed, do hereby certify that all of the foregiug witnesses are of the first respectability, and their testimony is entitled to full credit.

LAWSON RUNYON.
DAVID BASSETT.
THOMAS HOLMAN.

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Spring:

A. D. March 9th, 1839, Lydia Belding, in right of her husband, Ludovicus Belding, deceased.

Whereas it is supposed that a part of the cultivation of the said L. Belding was made on the northwest quarter of section 33, township 2 south, range 19 west, and a part on the southwest quarter of the same section, (33:) Therefore I, Lydia Belding, in right of my husband, Ludovicus Belding, deceased, do relinquish all claim or pretention to pre-emption on the northwest quarter of section 33, and if allowed by law to hold pre-emption, I wish to hold it on the southwest quarter of section 33, township 2 south, range 19 west.

LYDIA BELDING.

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyon, clerk of the circuit court and ex-officio recorder within and for the county aforesaid, do hereby certify that the annexed and foregoing pre-emption proof or instrument of writing was filed for record in my office on the 18th day of October A. D. 1841, and the same is now duly recorded in record-book A of deeds and mortgages, pages 249, 250, 251.

120 In testimony whereof I have hereunto set my hand as clerk aforesaid and affixed the seal of said court, at Hot Springs, this 19th day of October, A. D. 1841.

[SEAL.] LAWSON RUNYON,
Clerk and Ex-officio Recorder.

And I further certify, at the same time and place, that I was present at the taking of the depositions and proof of the pre-emption aforesaid before A. N. Sabin, who was at that time an acting justice of the peace legally commissioned and qualified and acting in his official capacity, and full credit is due to all his official acts as such justice of the peace.

LAWSON RUNYON,
Clerk of Hot Spring Circuit Court.

STATE OF ARKANSAS,
County of Hot Spring, ss:

Be it remembered that Lawson Runyon this day personally appeared before me, John C. Kuykendal, an acting justice of the peace within and for the county of Hot Spring and State aforesaid, and on his oath deposeth and sayeth that he was deputed to present the within and foregoing proof of a pre-emption right to the commissioners of the land-office at Washington, Arkansas; that the same was duly filed with the register of said land-office on the 10th day of March, 1839, at which time and place he tendered payment for the quarter-section of land in said proof of pre-emption aforesaid mentioned, in gold and silver coin of the United States, to the full amount of one dollar and twenty-five

cents per acre, or two hundred dollars, with the amount of all official and legal charges.

And further this deponent sayeth not.

LAWSON RUNYON.

Sworn and subscribed before me this 18th day of November, A. D. 1841.

JOHN C. KUYDENDAL, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, John C. Kuykendal, a presiding justice of the peace of the county court within and for the county of Hot Spring and State aforesaid, do hereby certify that the foregoing attestation of record is in due
121 form and by the proper officer, to wit, the proper clerk of the circuit court of the county and State aforesaid, who is also ex-officio recorder by virtue of his office.

Given under my hand and seal as such presiding justice this 18th day of November, 1841.

[SEAL.] JOHN C. KUYKENDAL, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Lawson Runyon, clerk of the circuit and county courts within and for the county of Hot Spring and State of aforesaid, do hereby certify that John C. Kuykendal is one of the presiding justices of the peace of the county court of Hot Spring County, duly commissioned and qualified.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the official seal of said court at Hot Spring, this 18th day of November, A. D. 1841.

SEAL OF CIRCUIT COURT OF HOT SPRING, ARK. LAWSON RUNYON, *Clerk Hot Spring Circuit and County Courts.*

RECEIVER'S OFFICE, AT WASHINGTON, ARKANSAS,
February 13th, 1851.

In obedience with instructions, I have the honor to report that I have with great care examined the evidence for, as well as against, the claim of the legal heirs and representatives of Ludovicus Belden, deceased, to a pre-emption to what is known as the Hot Springs, and the result of this examination is that I find it is abundantly shown that—

First. Ludovicus Belden was in possession of the Hot Spring on the 29th day of May, 1830, not in his own right, however, but as a tenant under and by virtue of a lease from John Percifull, who, it is shown, claimed said springs and had possession of them; and,

Second. That said Ludovicus Belden did cultivate, or cause it to be done, a portion of the land embraced in the quarter-section on which the Hot Springs are situated, but that he only acquired the right to cultivate said land by means of said lease from John Percifull to him; and,

Third. That all the improvements which said Belden put on said quarter-section during the time he held possession were made in
122 accordance with an express agreement between him and Percifull that he should do so, and was the consideration on which Perci-

full leased the springs to him, and that said improvements were made for the use and benefit of said Percifull, and not Belden; and,

Fourth. That the purchase of the "Millard cabins" was made by Belden for the use and benefit of John Percifull, and not for his own use and benefit no longer than the term of his said lease; and,

Lastly. For the foregoing reasons, and assuming the position as good conscience that the ant is the possession of the landlord, (Note.—Torn off and lost.) that said Belden was a "settler," the southwest quarter of section in township two (2) south, of range neteen (19) west, on the 29th day of May, 1830, or that he cultivated land on said quarter-section prior to that time within the meaning and spirit of the law, and that consequently the heirs and legal representatives of said L. Belden, deceased, are not entitled to enter said land by pre-emption under the provisions of the act approved 29th May, 1830, or of any act supplementary to the same.

B. F. HEMPSTEAD,
Receiver.

REGISTER'S OFFICE, WASHINGTON, ARKANSAS,
March 22d, 1851.

SIR: In obedience to your letter of instructions dated 23d October, 1850, remanding to the land-office for this district the different pre-emption claims to the tract of land upon which the Hot Springs are situate, for re-investigation and adjudication by the register and receiver, without regard to questions of law, which are reserved for the determination of the Department, I beg leave to report: That upon a careful investigation of the testimony adduced by the heirs and legal representatives of Ludovicus Belding, deceased, in support of a pre-emption right to the southwest quarter of section thirty-three, (33,) in township two (2) south, in range nineteen (19) west of the 5th principal meridian, in right of said Ludovicus, deceased; and upon due consideration of the testimony produced before the register and receiver adverse to said
123 claim, it is, in my opinion, clearly proven that the said Ludovicus Belding did cultivate on said southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, in the year 1829, and that he had possession of the same on the 29th of May, A. D. 1830, as required by the first section of the pre-emption law, approved 29th of May, 1830.

WM. H. ETTER,
Register.

Hon. JUSTIN BUTTERFIELD,
Commr. Genl. Land-Office, Washington, D. C.

GENERAL LAND-OFFICE, *August 26th*, 1851.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant returning the papers in the Hot Springs case, in order that this Office may pass its judgment upon the pre-emption claims as recently returned by the local land-officers, and report the result to you by the 1st proximo.

The subject has been fully considered by this Office, and the pre-emption claim of the heirs of John Percifull, under the act of 1814, is regarded as settled by the action of the land-officers, there being a want of concurrence in opinion upon the questions of fact as to the actual

inhabitancy and cultivation of the land at the period required by the law by the district officers.

In reference to the pre-emption claim of Belding under the act of 1830, both officers agree as to the cultivation in 1829 and possession on 29th May, 1830; the register unqualifiedly deciding, upon the testimony furnished, that such cultivation and possession was fully established and in a manner to entitle the party to the right claimed; whilst the receiver, though agreeing as to the performance of these acts by Belding, is of opinion they were done by him as the tenant of another.

This Office is of opinion that the judgment of the register is the correct one in the matter; the testimony, taken in connection with all the acts of the claimant, being such as to negative the idea of Belding acting as the mere agent or lessee of another in what he may have done upon the land; and in the absence of all authority to recognize the right or power in any individual to lease the public land to another, acts performed in accordance with the requisitions of the law, and
124 made the basis of a right under it, should be regarded as inuring to the benefit of the person performing them, wherever there is good ground to believe that the animus directing and controlling these acts was in good faith to acquire whatever rights or benefits might accrue therefrom as a settler or occupant of the public lands.

The opinion thus expressed is founded solely upon the testimony in the case herein referred to, entirely irrespective of any questions of law involved in the matter because of other conflicting claims; questions which have heretofore been reserved by the Department for its action after opinions heretofore given in relation thereto.

I have the honor to return herewith all the papers in the matter.

With much respect, your obedient servant,

J. BUTTERFIELD,
Commissioner.

To Hon. A. H. H. STUART,
Secretary of the Interior.

It is asked that an entry of the Hot Springs should be permitted in the name of the heirs of Ludovicus Belding, for the following reasons:

1st. Such an entry ought (according to the practice of the Office) to be made before the final decision of the Secretary upon the several questions of law. Regularly the routine of pre-emption practice is this: The pre-emptioner makes his application at the local land-office for the land settled on. He offers his proof. If his proof of settlement and cultivation is satisfactory to the register and receiver they so decide, and the receiver takes the purchase-money, and thereupon the register issues a certificate of entry. That certificate is sent to the General Land-Office for patenting, and when the case is examined in the General Land-Office, before issuing the patent, then all questions of law are determined, and the patent either issued or withheld as the proper officer shall determine. Now, this case was sent to the local land-officers for the purpose of adjudicating the pre-emption right of Ludovicus Belding, irrespective of any questions of law. They heard testimony and agreed that Belding was an actual settler and cultivator in 1829, and in personal possession on the 29th of May, 1830; but the receiver qualified his decision by an opinion as to the law. Upon the return of the papers to the Department of the Interior they were sent to the Commissioner of the General Land-Office for his report thereon, after which the
125 Commissioner returned them to the Department of the Interior with an opinion that the register and receiver had decided in favor of

Belding's claim. At this point instructions should have been sent to the register and receiver to permit the entry by Belding's heirs; after which, and before the issuing of a patent, all question of reservation would be regularly taken up and determined. The fact is that the register and receiver ought to have permitted the entry before the papers were returned to the Department. Failing to do this at the proper time, they should be now instructed to do it. And were the claim of Belding by itself, without any interference from other claims, I do not believe for a moment that any question would be made upon the propriety of having the entry made before taking up the matter for final decision. But, unfortunately, the Belding claim must be decided at the same time with Rector's claim; the latter being regularly before the Department (he having already a patent-certificate) upon the question whether a patent should issue to him. And thus Belding's heirs are placed in a worse position than they would be in, be causetheir claim is to be prematurely acted on with that of Rector. But should the rights of Belding's heirs be prejudiced by that circumstance. Should they not be placed on an equal footing with Rector, who has a certificate of entry, in order that they may assert their rights in court hereafter?

The entry of Belding's heirs should then be permitted before the Secretary makes, or at least promulgates, his final decision.

2. But suppose the Secretary to have actually made and promulgated his decision; still, justice to the heirs of Belding demands that they should be placed in a position to assert their rights hereafter in the courts. And especially should this be done, inasmuch as the United States does not part with any right or advantage which she now has; nor, as against the United States, do the heirs of Belding derive one single advantage. It only enables the claimant to go into court against others who may hereafter obtain the legal title, and then try the question judicially whether or not the claim was valid.

But there are precedents for such a course of the highest character. I will first refer to one by Chief-Justice Taney, when Secretary of the Treasury. It had been decided by Mr. Duane that the tract then in controversy was granted by act of Congress to the State of Arkansas, so that there was not even the necessity of issuing a patent. The
126 heirs of Cloyes (a pre-emptioner) asked that nevertheless they might be permitted to make an entry of the land in order to contest their rights hereafter in the courts. The General Land-Office declined to do this, saying that the Department having decided that the land was actually granted by act of Congress to a State, they would have no right to permit an entry of the same land by another. Cloyes' heirs appealed to the Secretary of the Treasury. Mr. Taney in his decision (2 Land Laws, Op. and Inst., 572,) says, in substance, my predecessor having decided, &c., all questions as to the issuing of a patent to others is at an end; but feeling reluctant to prejudice the rights of the claimants from adjudications under the pre-emption laws, I will permit the purchase-money to be received and an entry to be made. This was done, and upon that very entry, so made, the heirs of that poor pre-emptioner recovered that very land by the decision of the Supreme Court of the United States in 9 Howard, 314.

Again, a case (Wright vs. McGee) was decided by Mr. Ewing something like this: A patent had actnally been issued for a tract of land, to which afterwards a claim was laid under the pre-emption laws, and the claimant desired that his proof might be examined, his entry permitted, and a patent issued to him. The General Land-Office decided that there was no use in examining the pre-emption proof, inasmuch as they

could not issue a patent, the title having already gone from the Government by the patent already issued. An appeal was taken to Mr. Ewing, and he decided in substance that the proof ought to be examined and the entry permitted, in order to place the party in a proper position to assert his rights, and that it would be time enough to determine whether a patent could issue when that question should regularly come up. The same doctrine is laid by Attorney-General Butler, in the case of Taylor vs. Hough & Fisk, (2 Land Laws, Op. and Inst., p. 213.)

Now, the only possible objection to the application of these authorities is, that the Secretary having decided (if he has decided) that the land now in controversy is reserved, to permit an entry would be inconsistent with the decision, inasmuch as an entry of reserved land is illegal. But there is really no difference in principle between the cases. It is just as illegal to permit an entry of land granted by act of Congress
127 to a State, as it would be to permit an entry of land reserved to the United States, and, as I think, more so, inasmuch as in the one case the Department permits an entry of land decided as not belonging to the Government, whilst in the other the land is reserved expressly for its use. But the objection in both cases supposes the decision of the Secretary to be final and infallible. But it does not always follow that because the Secretary of the Treasury decides land to be either reserved or granted that it is so. It did not turn out to be so in the case of Lytle vs. Arkansas, before referred to. It is the very question to be determined. Were there no dispute as to the continuance of the reservations unrepealed, there could then be no dispute as to the pre-emption claims. But the continuance of the reservation is the very question at issue, the very question which we wish hereafter to try in the courts. And it would be a singular sort of logic, as well as law, which tells us we don't think your claim a good one, and, not thinking it a good one, it would be inconsistent with our opinion to aid you in trying that question in the courts.

The case was sent back to the local land-officers for the express purpose of adjudicating the pre-emption claims, without regard to the questions of law; and this was for the express purpose of placing the parties in a condition to avail themselves thereafter of their rights in the courts. They have been put to great expense in doing that which will be useless to them unless they are permitted to go one step further and make the entry.

Hon. J. J. CRITTENDEN:

DEAR SIR: I enclose a paper upon the point now open in the Hot Springs case.

I fear if something is not done immediately it will be too late.

With great respect, your obt. servt.,

A. H. LAURENCE.

E.

(Endorsed on the back as follows:) A. H. Laurence. Hot Springs case.

It seems to me that it would be proper, in accordance with precedent, to instruct the register and receiver to admit Belding's
128 heirs to make the usual entry on their claim, upon the usual terms, &c.; said entry to be and remain subject to all the same power of revision and control by the General Land-Office or Department of

the Interior as may be exercised in any case of entries admitted in the ordinary course of business by registers and receivers

The Government will thus still hold the ultimate power of protecting its own rights, while it merely places Belding's heirs in a position to contest the adverse claims of others, holding entries on the same land.

J. J. C.

E.

(The foregoing application by A. H. Lawrence seems to have accompanied the following letter:)

WASHINGTON, D. C., *Oct.* 14*th*, 1851.

J. BUTTERFIELD, Esq.,
Commissioner of the General Land-Office:

SIR: The Secretary of the Interior having decided adversely to the several claims to the Hot Springs on the ground that the act of 20th April, 1832, remains still in force, I have the honor to ask that an entry may be permitted in the name of the heirs of Ludovicus Belding, in order that they may be placed in a proper position for the assertion of their rights hereafter in the courts. Of course, under the decision of the Secretary, I should not ask for a patent.

I am, very respectfully, your obedient servant,

A. H. LAWRENCE,
Attorney for the Heirs of L. Belding.

F.

DEPARTMENT OF THE INTERIOR,
Washington, November 21st, 1851.

SIR: Upon consultation with the Attorney-General, and after full consideration of the application of A. H. Lawrence, esq., attorney for the heirs of Ludovicus Belding, one of the claimants to the Hot Springs of Arkansas, on appeal from your decision of the 15th ultimo against permitting said heirs to make an entry under the acts of 29th May, 1830, and 14th July, 1832, I have concluded that it will be proper and
129 in accordance with precedent to permit them to do so; and you will therefore instruct the register and receiver accordingly.

Said entry will remain subject to the same power of revision and control by the General Land-Office and this Department as may be lawfully exercised over any ordinary entry. The Government will still hold the ultimate power of protecting its own rights, while the claimants will merely be placed in a position to contest the adverse claims of others to the same land.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

The COMMISSIONER OF THE GENERAL LAND-OFFICE.

G.

No. 6545. LAND-OFFICE AT WASHINGTON, ARKANSAS,
December 19*th*, 1851.

It is hereby certified that, in pursuance of instructions from the Commissioner of the General Land-Office, bearing date November 25th,

1851, Maria Gaines, wife of William H. Gaines, late Maria Belding, Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, State of Arkansas, on this day purchased of the register of this office the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, as containing one hundred and sixty acres, at the rate of one dollar and twenty-five cents per acre, amounting to the sum of two hundred dollars, for which the said Maria Gaines, late Maria Belding, Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, have made payment in full. In accordance with instructions, I note that this entry interferes with the New Madrid location of Francis Langlois; that it embraces land directed to be reserved by the act of Congress approved 20th April 1832, and is only permitted to be made under the decision of the Secretary of the Interior, bearing date November 21st, 1851, and the instructions of the Commissioner of the General Land-Office, dated November 25th, 1851, in accordance with said decision.

WM. H. ETTER,
Register.

Pre-emption act of 29th May, 1830.

130 H.

RECEIVER'S OFFICE, AT WASHINGTON, ARKANSAS,
No. 6545. *December 19th*, 1851.

Received from Maria Gaines, wife of William H. Gaines, formerly Maria Belding, Albert Belding, Henry Belding, and George Belding, the heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, in the State of Arkansas, the sum of two hundred dollars in full for the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, containing one hundred and sixty (160) acres, according to the return of the surveyor-general, at $1.25 per acre. According to instructins, I note that this entry interferes with the New Madrid location of Francis Langlois on the same lands; and, also, that it embraces lands directed to be reserved by the act of Congress of 20th April, 1832, and is only permitted to be made under the decision of the Secretary of the Interior under date of November 21st, 2851, and the instructions of the Commissioner of the General Land-Office under date of November 25th, 1851, in accordance with said decision.

$200. B. F. HEMPSTEAD,
Receiver.

Pre-emption act of 29th May, 1830.

131 DISTRICT OF COLUMBIA,
City of Washington:

Before me, Nicholas Callan, a notary public in and for the said District, this day came the undersigned, who, being duly sworn, makes oath and says that there has been no assignment or transfer of the claim in the foregoing petition stated, or of any part thereof; that the said claimant is justly entitled to the amount in said petition claimed from the United States, after allowing all just credits and offsets, and that he believes the facts as stated in the said petition are true.

JOHN WILSON,
Attorney.

Subscribed and sworn to before me on the 8th day of September, at the city of Washington, D. C.

[SEAL.] NICHOLAS CALLAN,
Notary Public.

132 In the United States Court of Claims, Dec. term, 1870.

HOT SPRINGS OF ARKANSAS.

WM. H. GAINES AND HIS WIFE, MARIA GAINES, formerly Maria Belding, Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus Belding, decd., *vs.* THE UNITED STATES. } No. 6208.

Claiming the southwest quarter of section twenty-three, in township two south, of range 19 west, in the Washington land-district, Arkansas, under the pre-emption act of 29th May, 1830, being part of four sections known as the Hot Springs reservation of Arkansas.

Motion to amend petition.—Filed Dec. 5, 1870.

To the hon. the judges of the Court of Claims of the United States:

133 It is respectfully prayed that permission be granted to amend the petition heretofore filed in this case.

JOHN WILSON,
Atty. for Belding's Heirs.

Allowed January 16, 1871.
By the court.

134 U. S. Court of Claims, December term, 1869.

WILLIAM H. GAINES AND HIS WIFE, MARIA Gaines, formerly Maria Belding, Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus Belding, decd., *vs.* THE UNITED STATES. } No. 6208.

Amended petition.—Filed Jan'y 16, 1870.

[To be substituted for the original.]

To the honorable the judges of the Court of Claims of the United States of America:

Your petition's, William H. Gaines and his wife, Maria, formerly Mara Belding, Albert Belding, and George Belding, citizens of the State of Arkansas, and Henry Belding, a citizen of the State of Texas, would respectfully represent that they, with the exception of William H. Gaines, husband of the said Maria Gaines, are the sole heirs at law of Ludovicus Belding, who died intestate in the county of Hot Springs, in the State of Arkansas, in the year 1835, and that they are the equitable owners, and as such are entitled to a patent to the southwest quarter

of section thirty-three, in township two south, of range nineteen west, in the Washington land-district, in the State of Arkansas, under the pre-emption acts of May 29th, 1830, and July 14th, 1832, said land being part of the four sections reserved by act approved April 20th, 1832, known as the Hot Springs reservation in the State of Arkansas. And that they file this petition under the provisions of the following act of Congress, entitled "An act in relation to the Hot Springs
135 reservation in Arkansas," received by the President May 31st, 1870, and not being returned by him within the time prescribed, become a law without his approval, to wit:

An act in relation to the Hot Springs reservation in Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person claiming title, either legal or equitable, to the whole or any part of the four sections of land constituting what is known as the Hot Springs reservation, in Hot Springs County, in the State of Arkansas, may institute against the United States in the Court of Claims, and prosecute to final decision, any suit that may be necessary to settle the same: Provided, That no such suit shall be brought at any time after the expiration of ninety days from the passage of this act, and all claims to any part of said reservation upon which suit shall not be brought under the provisions of this act within that time shall be forever barred.

SEC. 2. And be it further enacted, That all such suits shall be by petition in the nature of a bill in equity, and shall be conducted and determined in all respects, except as herein otherwise provided, according to the rules and principles of equity practice and jurisprudence in the other courts of the United States; and for the purposes of this act the Court of Claims is hereby invested with the jurisdiction and powers exercised by courts of equity so far as may be necessary to give full relief in any suit which may be instituted under the provisions of this act.

SEC. 3. And be it further enacted, That notice of every suit authorized by this act shall be executed by the delivery of a true copy thereof with a copy of the petition to the Attorney-General, whose duty it shall be, for and in behalf of the United States, to demur to or answer the petition therein, within thirty days after the service of such process upon him, unless the court shall, for good cause shown, grant further time for filing the same.

SEC. 4. And be it further enacted, That if two or more parties claiming the same lands under different rights shall institute separate suits under the provisions of this act, such suits shall be consolidated and tried together, and the court shall determine the question of title and grant all proper relief as between the respective claimants, as well as between each of them and the United States.

SEC. 5. And be it further enacted, That if, upon the final hearing of any cause provided for in this act, the court shall decide in favor of the United States, it shall order such lands into the possession of a receiver to be appointed by the court, who shall take charge of and rent out the same for the United States, until Congress shall by law direct how the same shall be disposed of, which said receiver shall execute a sufficient bond to be approved by the court, conditioned for the faithful performance of his duties as such, render a strict account of the manner in which he shall have discharged said duties, and of all moneys received by him as a receiver as aforesaid,
136 which shall be by said court approved or rejected accordingly as

it may be found correct or not, and pay such moneys into the Treasury of the United States; and he shall receive such reasonable compensation for his services as said court may allow, and in case of a failure of said receiver to discharge any duty devolving upon him as such, the court shall have power to enforce the performance of the same by rule and attachment. But if the court shall decide in favor of any claimant, both as against the United States and other claimants, it shall so decree, and proceed by proper process to put such successful claimant in possession of such portion thereof as he may be thus found to be entitled to, and upon the filing of a certified copy of such decree with the Secretary of the Interior, he shall cause a patent to be issued to the party in whose favor such decree shall be rendered for the lands therein adjudged to him: Provided, That either party may, within ninety days after the rendition of any final judgment or decree in any suit authorized by this act, carry such suit by appeal to the Supreme Court of the United States, which court is hereby vested with full jurisdiction to hear and determine the same on such appeal, in the same manner and with the same effect as in case of appeal in equity causes from the circuit courts of the United States: And provided further, That in case the judgment or decree of the Court of Claims in any such suit shall be adverse to the United States, the Attorney-General shall prosecute such appeal within the time above prescribed; and the taking of an appeal from any such judgment or decree shall operate as a supersedeas thereof. until the final hearing and judgment of the Supreme Court thereon.

J. G. BLAINE,
Speaker of the House of Representatives.
SCHUYLER COLFAX,
Vice-President of the United States and President of the Senate.

Received by the President May 31, 1870.

(NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.)

Your petitioners would further represent, that the act of the 29th May, 1830, granted a pre-emption right to every settler or occupant of the public lands, prior to the passage of that act, who was in possession at the date of it, and cultivated any part of said land, in 1829; that said Ludovicus Belding cultivated a part of the quarter section above described in 1829, and was in actual possession, by residence on the land, and cultivating it, on the 29th May, 1830, as shown by the testimony—(Ex. A.) (Note—The exhibits herewith filed are by order
137 of the Court of Claims made part of this petition and filed with it as such.) That being a settler on this land, and having complied with all the requirements of this act, he was entitled to enter this quarter-section of public land, by paying $1.25 per acre for it; as it had not then been reserved for the use of the United States, or either of the several States.

That this land was not then surveyed; and of course said Belding could not give the official technical designations of the land to which he was entitled; and to relieve just such cases, a supplemental act was passed by Congress, on the 14th July, 1832, (vol. 4, p. 603,) which provided "that all the settlers and occupants upon the public lands of the United States who are entitled to pre-emption according to the provis-

ions of the act of Congress approved the 29th May, 1830, and who have not been, or shall not be, enabled to make proof and enter the same within the time limited in said act, in consequence of the public surveys not having been made and returned, * * * the said occupants shall be permitted to enter said lands, on the same conditions in every respect as are prescribed in said act, within one year after the surveys are made," &c.

That the subdivisions and south boundary of this township were surveyed in the first quarter of 1838, and the plat of the survey of the township was certified by the surveyor-general on the 30th April, 1838; and a copy of it sent to the General Land-Office, with surveyor-general's letter of 26th June, 1838. (See Exhibit G.)

That the heirs of Belding proved up his pre-emption, and tendered the purchase-money for the land, on the 7th March, 1839, as shown by Exhibit A, being within the year after the land was surveyed and returned. That having thus done, and having performed all they were required to do under both these laws, or rather under this act of 29th May, 1830, and this extension of it of 14 July, 1832, the contract is completed, and Belding's heirs are entitled to the land.

By the 3d section of the act of 20th April, 1832, entitled "An act to authorize the governor of the Territory of Arkansas, to lease the salt springs in said Territory, and for other purposes," (vol. 4, p. 505,) it was directed: "That the hot springs in said Territory, together with four sections of land including said springs, as near the centre thereof as may be, shall be reserved for the future disposal of the United States; and shall not be entered, located, or appropriated, for any other purpose whatever."

138 This act reserves this land, not for public uses of any kind, but only for the future disposal of the Government; and taking the pre-emption act of 29th May, 1830, this act, and the act of July 14, 1832, and construing them as in pari materia, there can be no doubt that the act of 14 July, 1832, made the future disposal of this land contemplated by the 3d section of the act of 20th April, 1832.

That in consequence of this act of 20th April, 1832, and several other claims being alleged to this land, which will be noticed hereafter, no definite action was had on this claim of Belding's heirs till the 23d October, 1850, when the General Land-Office instructed the land-office at Washington, Arkansas, to have a rehearing of the said claim of Belding's heirs. That this rehearing was had of the testimony against, as well as in favor of the claim, and on the 13th Feb'y, 1851, the receiver made a report, in which he states that Ludovicus Belding cultivated this land in 1829, and occupied, possessed, and cultivated it in 1830, and on the 29th May of that year, but suggests the absurd supposition, that that cultivation and possession was as tenant of one Percifull; and therefore enured to the benefit of said Percifull; a theory that has always been scouted by the Land Department, and that would entirely undermine the land system. The Government is the only landlord, and entirely ignores the existence of any intervening right between it and the actual settler.

That the register, on the 22d March, 1851, made a report on said re-investigation, in which he states that "upon due consideration of the testimony produced before the register and receiver, adverse to said claim, it is in my opinion clearly proven that the said Ludovicus Belding did cultivate on the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, in the year 1829; and that he had possession of the same on the 29th of May, A. D.

1830, as required by the first section of the pre-emption law approved 29th of May, 1830." (For certified copy of this and the receiver's report, see Exhibit B.)

That on the 26th August, 1851, the Commissioner of the General Land-Office, in a report to the Secretary of the Interior on the action of the district land-officers, above-mentioned, stated that "in reference to the pre-emption claim of Belding under the act of 1830, both officers
139 agree as to the cultivation in 1829, and possession on the 29th May, 1830, the register unqualifiedly deciding, upon the testimony furnished, that such cultivation and possession was fully established, and in a manner to entitle the party to the right claimed; whilst the receiver, though agreeing as to the performance of these acts by Building, is of opinion they were done by him as the tenant of another.

"This Office is of opinion that the judgment of the register is the correct one in the matter, the testimony, taken in connection with all the acts of the claimant, being such as to negative the idea of Belding's acting as the mere agent or lesse of another in what he may have done upon the land, and in the absence of all authority to recognize the right or power in any individual to lease the public land to another, acts performed in accordance with the requisitions of the law and made the basis of a right under it should be regarded as inuring to the benefit of the person performing them, wherever there is good ground to believe that the animus directing and controlling those acts was in good faith to acquire whatever rights or benefits might accrue therefrom as a settler or occupant of the public lands." (See Exhibit C.)

And that the Secretary of the Interior, upon consultation with Hon. J. J. Crittenden, the Attorney-General, and under his advice, instructed the Commissioner of the General Land-Office to direct the local land-officers to permit the entry by Belding's heirs of the southwest quarter of section thirty-three, township two south, range nineteen west, under pre-emption acts of 29th May, 1830, and July 14, 1832, by virtue of the cultivation in 1829, and continued occupancy, settlement, and cultivation in 1830, of their ancestor, Ludovicus Belding. (See Exhibit D.)

Thus we have the decision of the district land-officers that Ludovicus Belding was in possession of this land on the 29th May, 1830; that he was a settler or occupant of it prior to that date, and that he cultivated a portion of it on the 29th May, 1830; in other words, that he had complied with all the conditions of settlement and cultivation required by the pre-emption act of 29th May, 1830. Such finding has always been considered as final and conclusive, as the 3d section of that act requires that "proof of settlement or improvement shall be made to the satisfaction of the register and receiver of the land district in which such lands may lie," &c.

That by the 11th section of the act of 4th September, 1841, "to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," appellate and revisory powers in all pre-emption
140 cases are conferred on the Secretary of the Treasury; and transferred to the Secretary of the Interior by the 4th section of the act of 3d March, 1849, "to establish the home department," (vol. 9, p. 395;) and similar powers are granted to the Commissioner of the General Land-Office, subject to the revision of the Secretary of the Interior by the 10th section of the act of 12 June, 1858. (Vol. 11, page 326.)

And thus we have the decision of the Commissioner of the General Land-Office, and Secretary of the Interior, under full sanction and au-

thority of law, that Belding's heirs are entitled to pre-emption to the land they claim under the act of 29th May, 1830.

That under the instructions of the Secretary of the Interior aforesaid, of the 21st November, 1851, the General Land-Office, on the 25th November, 1851, instructed the local land-officers at Washington, Arkansas, to permit the heirs of Ludovicus Belding to enter this land under the pre-emption act of 29th May, 1830; and on the 19th December, 1851, those land-officers did permit said entry, as per receipt and certificate of that date, marked "Exhibits E and F."

And your petitioners therefore pray the United States be made parties defendant to this petition, and that process issue hereupon, according to the provisions of the act aforesaid, and that your honors may decree to your petitioners the title and possession of said lands, both as against the United States and all other claimants, and that your honors will grant such other and further relief as may to you seem expedient and just. And your petitioners, as in duty bound, will ever pray, &c.

JOHN WILSON,
HUGHES, DENVER & PECK,
Attys. for Belding's Heirs.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Before me, the subscriber, a notary public within and for the District and county aforesaid, personally appeared John Wilson, who, having been duly sworn, deposes and says that there has been no assignment or transfer of the claim stated in the foregoing petition, or of any part thereof, except the amount agreed to be allowed the attorneys for their services in prosecuting the same; that he believes the said claimants justly entitled to the land and property in said petition claimed
141 from the United States, and that the statements made in said petition are correct and true, to the best of his knowledge and belief—said petition being an amendment, by permission of the honorable the Court of Claims, of the original petition in this case, filed August 23, 1870.

JOHN WILSON,
Attorney in Fact for Wm. H. Gaines and the other Heirs at Law of Ludovicus Belding.

Subscribed and sworn to before me, at the city of Washington, this eleventh day of January, A. D. 1871.

[SEAL.] N. CALLAN,
Notary Public.

GENERAL LAND-OFFICE, *August* 27, 1870.

I, Jos. S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed copies of papers connected with the case of "Hot Springs," Arkansas, except the letters and words inclosed in brackets, [,] are true and literal exemplifications from the files of this Office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Commissioner of the General Land-Office.

EXHIBIT A.

[Examined.] HOT SPRINGS, ARKANSAS, *November* 18, 1841.

To the Commissioner of the General Land-Office, at Washington City, D. C.:

DEAR SIR: Enclosed you will find the proof of a pre-emption right to the Hot Springs, in this State. The depositions enclosed are a copy from the original on file at Washington, Arkansas, certified by D. S. Witter, receiver, and recorded in the clerk's office at this place. The claim has not been acted upon at the Washington land-office on account of older claims, which have not been disposed of, also claiming the springs; and therefore this claim was merely filed to be acted upon at some future time. It is, however, understood that these older claims are invalid; in which case it is desired that this claim may be acted upon. I have requested Hon. Saml. McRoberts to examine and
142 attend to whatever may be necessary in relation to this claim. The claim is in favor of the heirs of Ludovicus Belding, deceased, and I am authorized by the widow, Mrs. Lydia Belding, to do anything which may be necessary in relation to this claim. I should be glad to know if anything desirable may be done in the matter. Please file the papers relating thereto in your Office, and write me on the subject.

Respectfully,

LAWSON RUNYON.

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Springs:

Pre emption right.—Lydia Belding, in right of her husband, Ludovicus Belding, deceased.

MARCH 7TH, 1839.

Personally appeared before me, A. N. Sabin, a justice of the peace, Lydia Belding, and, being first sworn for the purpose, deposeth and saith that she and her said husband were living at the Hot Springs in February, A. D. 1828, on the southwest quarter of section 33, township 2 south, range 19 west, or rather on the west half of the said section 33, as it is presumed that a legal subdivision of the said section 33 will leave the dwelling-house on the southwest quarter of the said section 33, and the cultivated ground on the northwest quarter of the same section, (33.) And further this deponent sayeth that, living on the west half of said section 33, in February, A. D. 1828, she and her said husband continued to live at the same place throughout the whole of the year, A. D. 1829; and that she and her said husband had ground enclosed with a fence, wherein they ploughed and cultivated corn, potatoes, peas, beans, &c., &c., in the year A. D. 1829. And further this deponent sayeth that although her said husband leased many privileges in the Hot Springs Valley to Asa Thompson in February, A. D. 1830, yet still she and her said husband reserved two houses for their own use, which two said houses she and her said husband had their possession throughout all the month of May, A. D. 1830, and until August, 1830; and one of the said houses she and her said husband continued to keep possession of throughout all the year A. D. 1831, and so on until it rotted away.

143 And further this deponent sayeth not.

LYDIA BELDING.

Done before me this 7th of March, 1839.

A. N. SABIN, *J. P.*

thority of law, that Belding's heirs are entitled to pre-emption to the land they claim under the act of 29th May, 1830.

That under the instructions of the Secretary of the Interior aforesaid, of the 21st November, 1851, the General Land-Office, on the 25th November, 1851, instructed the local land-officers at Washington, Arkansas, to permit the heirs of Ludovicus Belding to enter this land under the pre-emption act of 29th May, 1830; and on the 19th December, 1851, those land-officers did permit said entry, as per receipt and certificate of that date, marked "Exhibits E and F."

And your petitioners therefore pray the United States be made parties defendant to this petition, and that process issue hereupon, according to the provisions of the act aforesaid, and that your honors may decree to your petitioners the title and possession of said lands, both as against the United States and all other claimants, and that your honors will grant such other and further relief as may to you seem expedient and just. And your petitioners, as in duty bound, will ever pray, &c.

JOHN WILSON,
HUGHES, DENVER & PECK,
Attys. for Belding's Heirs.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Before me, the subscriber, a notary public within and for the District and county aforesaid, personally appeared John Wilson, who, having been duly sworn, deposes and says that there has been no assignment or transfer of the claim stated in the foregoing petition, or of any part thereof, except the amount agreed to be allowed the attorneys for their services in prosecuting the same; that he believes the said claimants justly entitled to the land and property in said petition claimed
141 from the United States, and that the statements made in said petition are correct and true, to the best of his knowledge and belief—said petition being an amendment, by permission of the honorable the Court of Claims, of the original petition in this case, filed August 23, 1870.

JOHN WILSON,
Attorney in Fact for Wm. H. Gaines and the other Heirs at Law of Ludovicus Belding.

Subscribed and sworn to before me, at the city of Washington, this eleventh day of January, A. D. 1871.

[SEAL.] N. CALLAN,
Notary Public.

GENERAL LAND-OFFICE, *August* 27, 1870.

I, Jos. S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed copies of papers connected with the case of "Hot Springs," Arkansas, except the letters and words inclosed in brackets, [,] are true and literal exemplifications from the files of this Office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Commissioner of the General Land-Office.

EXHIBIT A.

[Examined.] HOT SPRINGS, ARKANSAS, *November* 18, 1841.

To the Commissioner of the General Land-Office, at Washington City, D. C.:

DEAR SIR: Enclosed you will find the proof of a pre-emption right to the Hot Springs, in this State. The depositions enclosed are a copy from the original on file at Washington, Arkansas, certified by D. S. Witter, receiver, and recorded in the clerk's office at this place. The claim has not been acted upon at the Washington land-office on account of older claims, which have not been disposed of, also claiming the springs; and therefore this claim was merely filed to be acted upon at some future time. It is, however, understood that these older claims are invalid; in which case it is desired that this claim may be acted upon. I have requested Hon. Saml. McRoberts to examine and
142 attend to whatever may be necessary in relation to this claim. The claim is in favor of the heirs of Ludovicus Belding, deceased, and I am authorized by the widow, Mrs. Lydia Belding, to do anything which may be necessary in relation to this claim. I should be glad to know if anything desirable may be done in the matter. Please file the papers relating thereto in your Office, and write me on the subject.

Respectfully,

LAWSON RUNYON.

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Springs:

Pre emption right.—Lydia Belding, in right of her husband, Ludovicus Belding, deceased.

MARCH 7TH, 1839.

Personally appeared before me, A. N. Sabin, a justice of the peace, Lydia Belding, and, being first sworn for the purpose, deposeth and saith that she and her said husband were living at the Hot Springs in February, A. D. 1828, on the southwest quarter of section 33, township 2 south, range 19 west, or rather on the west half of the said section 33, as it is presumed that a legal subdivision of the said section 33 will leave the dwelling-house on the southwest quarter of the said section 33, and the cultivated ground on the northwest quarter of the same section, (33.) And further this deponent sayeth that, living on the west half of said section 33, in February, A. D. 1828, she and her said husband continued to live at the same place throughout the whole of the year, A. D. 1829; and that she and her said husband had ground enclosed with a fence, wherein they ploughed and cultivated corn, potatoes, peas, beans, &c., &c., in the year A. D. 1829. And further this deponent sayeth that although her said husband leased many privileges in the Hot Springs Valley to Asa Thompson in February, A. D. 1830, yet still she and her said husband reserved two houses for their own use, which two said houses she and her said husband had their possession throughout all the month of May, A. D. 1830, and until August, 1830; and one of the said houses she and her said husband continued to keep possession of throughout all the year A. D. 1831, and so on until it rotted away.

143 And further this deponent sayeth not.

LYDIA BELDING.

Done before me this 7th of March, 1839.

A. N. SABIN, *J. P.*

At the above date personally appeared before me, A. N. Sabin, a justice of the peace, Samuel Sentor, and, first being sworn for this purpose, stated on oath that L. Belding resided in the Hot Spring Valley on the 2d day of May, A. D. 1829, and that he, L. B., cultivated the ground and resided there throughout all the summer and winter of A. D. 1829; and although L. Belding moved his family from the valley in the spring of 1830, yet still L. Belding reserved two houses for his own use, which said two houses was in the use and possession of Ludovicus Belding throughout all the summer of 1830.

And further this deponent sayeth not.

SAMUEL SENTER.

Done before me March 7th, 1839.

A. N. SABIN, *J. P.*

At this date, March 7th, 1839, personally appeared before me, A. N. Sabin, a justice of the peace, William Davis, and, first being sworn for the purpose, stated on oath that he (witness) ploughed the ground in Hot Spring Valley, in the spring of the year A. D. 1829, for Ludovicus Belding to plant, cultivate, &c., and that he (witness) was paid for his work and ploughing by L. Belding.

And further deponent sayeth not.

WILLIAM his + mark. DAVIS.

Done before me March 7th, 1839.

A. N. SABIN, *J. P.*

At this date, March 7th, 1839, personally came before me, A. N. Sabin a justice of the peace, Johnathan Bassett, and, being first sworn for the purpose, deposeth and sayeth that the foregoing deposition of Lydia Belding is essentially and entirely the truth, as of his own certain knowledge.

And further this deponent sayeth not.

JOHNATHAN BASSETT.

Done before me March 7th, 1839.

A. N. SABIN, *J. P.*

144 I, A. N. Sabin, hereby certify that all the foregoing witnesses are of the first respectability in our land, and their testimony in this case is entitled to full credit.

March 7th, 1839.

A. N. SABIN, *J. P.*

We, whose names are hereunto subscribed, do hereby certify that all the foregoing witnesses are of the first respectability, and their testimony is entitled to full credit.

LAWSON RUNYON.
DAVID BASSETT.
THOMAS HOLMAN.

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Spring:

A. D., March 9th, 1839, Lydia Belding, in right of her husband, Ludovicus Belding, deceased. Whereas it is supposed that a part of the culti-

vation of the said L. Belding was made on the northwest quarter of section 33, township 2 south, range 19 west, and a part on the southwest quarter of the same section, (33:) Therefore I, Lydia Belding, in right of my husband, Ludovicus Belding, deceased, do relinquish all claim or pretention to pre-emption on the northwest quarter of section 33, and if allowed by law to hold pre-emption, I wish to hold it on the southwest quarter of section 33, township 2 south, range 19 west.

LYDIA BELDING.

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyon, clerk of the circuit court and ex-officio recorder within and for the county aforesaid, do hereby certify that the annexed and foregoing pre-emption proof or instrument of writing was filed for record in my office on the 18th day of October, A. D. 1841, and the same is now duly recorded in record-book A of deeds and mortgages, pages 249, 250, 251.

In testimony whereof I have hereunto set my hand as clerk aforesaid and affixed the seal of said court, at Hot Springs, this 19th day of October, A. D. 1841.

[SEAL.]

LAWSON RUNYON,
Clerk and Ex-officio Recorder.

And I further certify, at the same time and place, that I was present at the taking of the depositions and proof of the pre-emption
145 aforesaid before A. N. Sabin, who was at that time an acting justice of the peace, legally commissioned and qualified and acting in his official capacity, and full credit is due to all his official acts as such juctice of the peace.

LAWSON RUNYON,
Clerk of Hot Spring Circuit Court.

STATE OF ARKANSAS,
County of Hot Spring, ss:

Be it remembered that Lawson Runyon this day personally appeared before me, John C. Kuykendal, an acting justice of the peace within and for the county of Hot Spring and State aforesaid, and on his oath deposeth and sayeth that he was deputed to present the within and foregoing proof of a pre-emption right to the commissioners of the land-office at Washington, Arkansas; that the same was duly filed with the register of said land-office on the 10th day of March, 1839, at which time and place he tendered payment for the quarter-section of land in said proof of pre-emption aforesaid mentioned, in gold and silver coin of the United States, to the full amount of one dollar and twenty-five cents per acre, or two hundred dollars, with the amount of all official and legal charges.

And further this deponent sayeth not.

LAWSON RUNYON.

Sworn and subscribed before me this 18th day of November, A. D. 1841.

J. C. KUYKENDAL, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, John C. Kuykendal, a presiding justice of the peace of the county

court within and for the county of Hot Spring and State aforesaid, do hereby certify that the foregoing attestation of record is in due form and by the proper officer, to wit, the proper clerk of the circuit court of the county and State aforesaid, who is also ex-officio recorder by virtue of his office.

Given under my hand and seal as such presiding justice this 18th day of November, 1841.

[SEAL.] JOHN C. KUYKENDAL, *J. P.*

146 STATE OF ARKANSAS,
County of Hot Spring, ss :

I, Lawson Runyon, clerk of the circuit and county courts within and for the county of Hot Spring, and State aforesaid, do hereby certify that John C. Kuykendal is one of the presiding justices of the peace of the county court of Hot Spring County, duly commissioned and qualified.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the official seal of said court, at Hot Spring, this 18th day of November, A. D. 1841.

{ SEAL OF CIRCUIT COURT } LAWSON RUNYON,
{ OF HOT SPRING, ARK. } *Clerk Hot Spring Circuit and County Courts.*

EXHIBIT B.

RECEIVER'S OFFICE AT WASHINGTON, ARKANSAS,
February 13th, 1851.

In obedience with instructions, I have the honor to report that I have with great care examined the evidence for, as well as against, the claim of the legal heirs and representatives of Ludovicus Belden, deceased, to a pre-emption to what is known as the Hot Springs, and the result of this examination is that I find it abundantly shown that—

First. Ludovicus Belden was in possession of the Hot Spring on the 29th day of May, 1830, not in his own right, however, but as a tenant under and by virtue of a lease from John Percifull, who, it is shown, claimed said springs and had possession of them; and,

Second. That said Ludovicus Belden did cultivate, or cause it to be done, a portion of the land embraced in the quarter-section on which the Hot Springs are situated, but that he only acquired the right to cultivate said land by means of said lease from John Percifull to him; and,

Third. That all the improvements which said Belden put on said quarter-section during the time he held possession were made in accordance with an express agreement between him and Percifull that he should do so, and was the consideration on which Percifull leased the springs to him, and that said improvements were made for the use and benefit of said Percifull and not Belden; and,

147 Fourth. That the purchase of the "Millard cabins" was made by Belden for the use and benefit of John Percifull, and not for his own use and benefit no longer than the term of his said lease; and,

Lastly. For the foregoing reasons, and assuming the position as good conscience that the ant is the possession of the landlord, that said Belden was a "settler," the southwest quarter of section in township two, (2,) south of range neteen (19) west, on the 29th day of May, 1830, or that he

(Note.—Torn off and lost.)

cultivated land on said quarter-section prior to that time within the meaning and spirit of the law, and that consequently the heirs and legal representatives of said L. Belden, deceased, are not entitled to enter said land by pre-emption under the provisions of the act approved 29th May, 1830, or of any act supplementary to the same.

B. F. HEMPSTEAD, *Receiver.*

REGISTER'S OFFICE, WASHINGTON, ARKANSAS,
March 22d, 1851.

SIR: In obedience to your letter of instructions dated 23d October, 1850, remanding to the land-office for this district the different pre-emption claims to the tract of land upon which the Hot Springs are situate, for re-investigation and adjudication by the register and receiver, without regard to questions of law, which are reserved for the determination of the Department, I beg leave to report: That upon a careful investigation of the testimony adduced by the heirs and legal representatives of Ludovicus Belding, deceased, in support of a pre-emption right to the southwest quarter of section thirty-three (33) in township two (2) south, in range nineteen (19) west of the 5th principal meridian, in right of said Ludovicus , deceased; and upon due consideration of the testimony produced before the register and receiver adverse to said claim, it is, in my opinion, clearly proven that the said Ludovicus Belden did cultivate on said southwest quarter of section thirty-three (33) in township two (2) south, of range nineteen (19) west, in the year 1829, and that he had possession of the same on the 29th of May, A. D. 1830, as required by the first section of the pre-emption law approved 29th of May, 1830.

WM. H. ETTER, *Register.*

Hon. JUSTIN BUTTERFIELD,
Commr. Genl. Land-Office, Washington, D. C.

148 EXHIBIT C.

GENERAL LAND-OFFICE, *August 26th*, 1851.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, returning the papers in the Hot Springs case, in order that this Office may pass its judgment upon the pre-emption claims as recently returned by the local land-officers, and report the result to you by the 1st proximo.

The subject has been fully considered by this Office, and the pre-emption claim of the heirs of John Percifull, under the act of 1814, is regarded as settled by the action of the land-officers, there being a want of concurrence in opinion upon the question of fact, as to the actual inhabitancy and cultivation of the land at the period required by the law, by the district officers.

In reference to the pre-emption claim of Belding under the act of 1830, both officers agree as to the cultivation in 1829 and possession on 29th May, 1830; the register unqualifiedly deciding, upon the testimony furnished, that such cultivation and possession was fully established, and in a manner to entitle the party to the right claimed; whilst the receiver, though agreeing as to the performance of these acts by Belding, is of opinion they were done by him as the tenant of another.

This Office is of opinion that the judgment of the register is the correct one in the matter, the testimony, taken in connection with all the acts of the claimant, being such as to negative the idea of Belding acting

as the mere agent or lessee of another in what he may have done upon the land; and in the absence of all authority to recognize the right or power in any individual to lease the public land to another, acts performed in accordance with the requisitions of the law, and made the basis of a right under it, should be regarded as inuring to the benefit of the person performing them, wherever there is good ground to believe that the animus directing and controlling these acts was in good faith to acquire whatever rights or benefits might acrue therefrom as a settler or occupant of the public lands.

The opinion thus expressed is founded solely upon the testimony in the case herein referred to, entirely irrespective of any questions of law involved in the matter because of other conflicting claims;
149 questions which have heretofore been reserved by the Department for its action after opinions heretofore given in relation thereto.

I have the honor to return herewith all the papers in the matter.

With much respect, your obedient servant,

J. BUTTERFIELD,
Commissioner.

EXHIBIT D.

DEPARTMENT OF THE INTERIOR,
Washington, November 21st, 1851.

SIR: Upon consultation with the Attorney-General, and after full consideration of the application of A. H. Lawrence, esq., attorney for the heirs of Ludovicus Belding, one of the claimants to the Hot Springs of Arkansas, on appeal from your decision of the 15th ultimo against permitting said heirs to make an entry under the acts of 29th May, 1830, and 14th July, 1832, I have concluded that it will be proper and in accordance with precedent to permit them to do so; and you will, therefore, instruct the register and receiver accordingly.

Said entry will remain subject to the same power of revision and control by the General Land-Office and this Department as may be lawfully exercised over any ordinary entry. The Government will still hold the ultimate power of protecting its own rights, while the claimants will merely be placed in a position to contest the adverse claims of others to the same land.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

The COMMISSIONER OF THE GENERAL LAND-OFFICE.

EXHIBIT E.

No. 6545. LAND-OFFICE AT WASHINGTON, ARKANSAS,
December 19th, 1851.

It is hereby certified, that in pursuance of instructions from the Commissioner of the General Land-Office bearing date November 25th, 1851, MariaGaines, wife of William H. Gaines, late Maria Belding, Al-
150 bert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, State of Arkansas, on this day purchased of the register of this office the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, as containing one hundred and sixty acres, at the rate of one dollar and twenty-five cents per

acre, amounting to the sum of two hundred dollars, for which the said Maria Gaines, late Maria Belding, Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, have made payment in full. In accordance with instructions, I note that this entry interferes with the New Madrid location of Francis Langlois; that it embraces land directed to be reserved by the act of Congress approved 20th April, 1832, and is only permitted to be made under the decision of the Secretary of the Interior bearing date November 21st, 1851, and the instructions of the Commissioner of the General Land-Office dated November 25th, 1851, in accordance with said decision.

WM. H. ETTER, *Register.*

Pre-emption act of 29th May, 1830.

EXHIBIT F.

RECEIVER'S OFFICE AT WASHINGTON, ARKANSAS,
No. 6545. *December 19th*, 1851.

Received from Maria Gaines, wife of William H. Gaines, formerly Maria Belding, Albert Belding, Henry Belding, and George Belding, the heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, in the State of Arkansas, the sum of two hundred dollars in full for the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, containing one hundred and sixty (160) acres, according to the return of the surveyor-general, at $1.25 per acre. According to instructions, I note that this entry interferes with the New Madrid location of Francis Langlois on the same lands; and also that it embraces lands directed to be reserved by the act of Congress of 20th April, 1832, and is only permitted to be made under the decision of the Secretary of the Interior under date of November 21st, 1851, and the instructions of the Commissioner
151 of the General Land-Office under date of November 25, 1851, in accordance with said decision.

$200. B. F. HEMPSTEAD,
Receiver.

Pre-emption act of 29th May, 1830.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
January 11, 1871.

I, Joseph S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed is a true and literal exemplification of the original on file in this Office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Commissioner of General Land-Office.

EXHIBIT G.

SURVEYOR'S OFFICE,
Little Rock, 26th June, 1838.

SIR: You will herewith receive plats of—

1. Township 6 north, range 15 west.
2. do. 11 do. do. 3 west.
3. do. 2 south, do. 19 west.

4.	do.	6	do.	do.	8	do. south of Arkansas River.
5.	do.	10	do.	do.	1	east, north of do.
6.	do.	10	do.	do.	30	west.
7.	do.	12	do.	do.	29	west.
8.	do.	19	do.	do.	2	do and fl. sections 31, 32, 33, and 34.
9.	do.	19	do.	do.	1	west.

Your obt. servt.,

EDW. CROSS,
Sur. Pub. Lands.

To JAMES WHITCOMB, Esq.
Commr. General Land Office.

152 In the Court of Claims of the United States, December term, 1870.

WM. H. GAINES ET ALS., *vs.* THE UNITED STATES. } No. 6208.

Answer of the United States.—Filed June 17, 1871.

The Attorney-General, for and in behalf of the United States, further answering by leave of court the petition therein, saith that he does not know, nor has he been informed, save by the claimants' petition, of the several matters or things therein contained, and that he therefore neither admits nor denies the same, but leaves said claimants to prove said matters as they may be advised. And he further denies that the claimants, by reason of any of said matters, have any title, legal or equitable, to the whole or any part of the land claimed in said petition, or to any relief in said premises at the hand of your honorable court. The title to said land, he avers, notwithstanding all said matters, to be and remain in the United States, in whose favor he claims the judgment of
153 your honorable court, and further proceedings thereunder as the law in such case directs.

THOMAS H. TALBOT,
Assistant Attorney-General.

154 In the Court of Claims of the United States, December term, 1872.

JOHN C. HALE, HENRY M. RECTOR, GEO. MACKAY, ET AL., JOHN H. RUSSELL, WM. H. GAINES, ET AL., *vs.* THE UNITED STATES. } No. 6203. " 6245. " 6244. " 6246. " 6208.

Motion of the Attorney-General to consolidate these causes.

And now comes the Attorney-General, on behalf of the United States, and under the provisions of section 4 of an act in relation to the Hot Springs reservation in Arkansas, passed May 31, 1870, moves the court that the above-entitled causes be consolidated and tried together, as the parties therein claim the same land, viz, S.W. quarter of section 33, in township 2 S., of range 19 west of the 5th principal meridian, containing 200 arpens of land—equal to 170 $\frac{15}{100}$ acres—in the State of Arkansas, under different rights, and have instituted separate suits under

155 the provisions of the act before cited, and that each of the said parties give notice to all of the parties in interest of all proceedings in the premises.

JOHN GOFORTH,
Asst. Atty. Genl.

Filed April 28, 1873.
Allowed May 19, 1873.
By the court.

156 In the Court of Claims of the United States.

JOHN C. HALE
vs.
THE UNITED STATES. } No. 6203.

HENRY M. RECTOR
vs.
THE SAME. } No. 6245.

GEO. B. MCKAY AND GITT
vs.
THE SAME. } No. 6244.

JOHN H. RUSSELL
vs.
THE SAME. } No. 6246.

W. H. GAINES ET AL.
vs.
THE SAME. } No. 6208.

Order of consolidation.

It appearing in these suits that the respective claimants are alleged to claim the same lands, it is ordered that the suits be consolidated as provided by the "act in relation to the Hot Springs reservation in Arkansas," passed May 31, 1870, and with the effect and for the purposes provided by the act.

And it is further ordered, that when the petitions now filed do not clearly and specifically set forth the right of action, together with the claims and demands of the party against each and every other party having or claiming to have an estate or equity in the same lands,
157 a supplemental petition be filed within thirty days in which the party shall distinctly set forth all the facts and circumstances of his alleged right, title, or interest in the lands, and the relief to which he is entitled, both as against the defendants and as against each and every adverse claimant.

And it is further ordered, that on the filing of any such petition it be deemed to be traversed and denied without the filing of any plea or answer thereto on the part of any other claimant, and that the consolidated suit be then deemed to be at issue both as between the claimants and the defendants, and also as between the respective claimants having adverse rights or interests.

And it is further ordered, that if any petition do not fully and specifically set forth the claim or interest of a party or the facts and circum-

stances which will be the subject of litigation, any party aggrieved may move for an order at chambers requiring the petition to be made
158 definite and certain in the particulars to be specified.

And it is further ordered that when the suit is at issue as before prescribed any party may proceed to take evidence in the form and manner prescribed by the rules of this court upon due notice to every other party in the suit, claimant or defendant.

And it is further ordered that the demurrer of the claimant Henry M. Rector to the petition of the claimant John C. Hale be dismissed; and that the motions of the *of the* said Rector to be entered as defendant to the suits of John H. Russell and George McKay et al. be denied, and that all questions of jurisdiction be reserved until the final hearing of the case.

June 4, 1873.

By the court.

159 In the Court of Claims of the United States.

JNO. C. HALE *vs.* THE UNITED STATES. } No. 6203, and the cases consolidated therewith.

F. P. Stanton, atty. for J. C. Hale.

Amended petition.—Filed June 23, 1873.

John C. Hale, in pursuance of the order made in this and the other cases consolidated therewith, now amends his original petition, and states as follows:

That an adverse title to the land claimed in the original petition is asserted by one Henry M. Rector, whose claim is set forth in the consolidated case No. 6245. The said Rector bases his pretended title to said land on a certain New Madrid certificate in the name of one Francis Langlois, pretended to have been issued in the year 1818 and to have been subsequently assigned and conveyed to said Rector.

The adverse claimants, George McKay and William W. Gitt, in consolidated case No. 6244, and also another adverse claimant, John H. Russell, in consolidated case No. 6246, all claim the said land under the same New Madrid certificate No. 467, and rely upon the same pretended title set up by the said Henry M. Rector in his petition aforesaid.

In reference to these various adverse claims, founded on the said pretended New Madrid certificate, your petitioner alleges that they are all utterly void and of no effect as against your petitioner's claim to a
160 right of pre-emption, as the assignee of John Percifull, who was the original occupant and settler on the land in dispute, residing thereon from the year 1812 continuously for many years afterward, as shown in this claimant's original petition. And your petitioner, without deeming it necessary to go into the particulars at length, now insists that all the said claims are void as against him: first, because, even if the said New Madrid certificate was in itself valid, it could not have been lawfully located on the land in dispute, because the same was then occupied and claimed by the said John Percifull under the pre-emption law of 1814; and, secondly, because the said New Madrid certificate was never actually located on said land by any proper survey and proceedings recognized by the proper authorities of the United States, or entitled to be recognized by them as valid and binding in the premises.

Your petitioner further states that by certain articles of agreement and bargain and sale made on the 11th day of May, 1843, between the said Henry M. Rector and this petitioner, (which said instrument will hereafter, at the proper time, be exhibited and duly proved,) the said Rector conveyed to this petitioner and his heirs one undivided fourth part of his interest in the Hot Springs and of the New Madrid claim aforesaid. Your petitioner therefore claims the one-fourth of said land in the event of the establishment of the pretended title of the said Rector under the New Madrid location aforesaid.

Your petitioner further represents that another adverse claim to the land in dispute is asserted by William H. Gaines and his wife and others, the heirs at law of Ludovicus Belding, deceased, as will appear by reference to the petition in the consolidated case No. 6208, in which the claim of said parties is fully set forth.

Your petitioner alleges that the said Ludovicus Belding, deceased, the ancestor of the said claimants, at the time when it is claimed
161 that he occupied and cultivated the said land, to wit, in the years 1829 and 1830, was the tenant of the said John Percifull, and did not hold the said land in his own right, nor did the said Belding, in his life-time, ever pretend to set up for himself any right of pre-emption to the same. About the 1st of January, 1828, the said Ludovicus Belding leased from the said John Percifull all the improvements on the said land for and during the term of five years, ending on the 1st of January, 1833. The said Belding, deceased, by the terms of said lease, agreed to establish a store and keep a public house on said land, and also to erect certain buildings and make other improvements for the use and benefit of the said Percifull and to deliver possession of the premises to the said Percifull at the termination of the said lease.

Your petitioner further alleges that the said Belding did not occupy the said land on the 29th of May, 1830, but that prior to that date he had removed therefrom and sublet the same to one Asa Thompson, who occupied the said land until April, 1831, when a new arrangement was made, by which the balance of the said lease was assigned to one Richard C. Hawkins; all of which was duly acknowledged by the said Belding in a written instrument, of which the following is a true copy:

"Know all men by these presents that I, L. Belding, of the county of Hot Springs and Territory of Arkansas, do acknowledge and make known that I, the said Belding, did lease the buildings and improvements at the Hot Springs of John Percifull, and acknowledge his right to said improvements, and that I have now, before this date, leased the said buildings and all the privivileges (except three cabins, two of which are not mine) to Richard C. Hawkins until the 1st day of January, 1833; then, and at which time, I, the said Belding, agree and bind myself to deliver all and every part of the buildings and improvements at said Hot Springs that I have ever had, in the same condition as the said Hawkins is to deliver to me, unto John Percifull if he demands the
162 same; and that I have no pretensions to the improvement of said springs except under the claim of said John Percifull.

"Given under my hand this 2d April, 1831.

"L. BELDING."

Your petitioner further alleges that the said Jno. Percifull resumed possession of the said premises in the year 1832, and continued to occupy them until his death; and that said Beldng, so long as he lived, never in any way disputed the right of the said Percifull, or set up any claim for himself to the said land or the improvements thereon.

Under all these facts, your petitioner insists that neither the said Ludovicus Belding, in his life-time, nor his said heirs, since his death, ever had, or now have, any legal right whatever to claim the said lands by pre-emption; or, if such a right of pre-emption could be allowed at all to the said heirs, the same could only be held by them in trust for the benefit of the petitioner as assignee of all the rights of the said John Percifull, deceased, in the premises.

Your petitioner further alleges that the entry allowed to be made by the said heirs of Ludovicus Belding, on the 19th of December, 1851, was wholly void and illegal, and the same has since been ordered to be cancelled by the Secretary of the Interior, and the said order sustained as valid by the Supreme Court of the United States in the case of Gaines vs. Thompson, (7 Wall., p. 347.) All the facts herein stated will be satisfactorily established by the records of the General Land-Office and of the Interior Department, and by such other proof as may be necessary and within the reach of this petitioner.

Your petitioner further states that the questions now pending in these consolidated cases between the said heirs of Belding and the said Henry M. Rector and this petitioner have been the subjects of litigation in the courts of Arkansas; and that a case between the said parties is now pending in the Supreme Court of the United States, on ap-
163 peal from the supreme court of Arkansas, which has been suspended or postponed to await the judgment and decree of this court in the premises. Your petitioner alleges that the record of said case and the proofs therein contained are of great importance in this case and properly admissible here, as between the parties to that record. Your petitioner, therefore, begs leave to refer to that record, which in proper time he will produce in this court.

Your petitioner further states that he relies on the act of March 1, 1843, entitled "An act to perfect the titles to lands south of the Arkansas River, held under New Madrid locations, and pre-emption rights under the act of one thousand eight hundred and fourteen." (5 Stat., 603.)

Your petitioner alleges that at the time of the passage of this act the only claim for a pre-emption south of the Arkansas River under the act of 1814 (1815) was the claim asserted by this petitioner by virtue of the settlement and cultivation of the land in dispute by John Percifull; and the act in question was passed for the express purpose of enabling the parties claiming title to the Hot Springs—the land in dispute—to have their controversy adjusted and the patent issued to the party entitled to it.

Your petitioner insists that as the only obstacle to the Percifull pre-emption was the fact that the title of the Quapaw Indians had not been extinguished to the lands south of the Arkansas River, the act of 1843 was intended to remove this obstacle, and that its effect was to legalize and confirm the said Percifull pre-emption under the act of 1814 from the beginning. And the said pre-emption having had its inception prior to any other one of the adverse claims in these consolidated cases, is superior to them all, and must prevail against them under any circumstances whatever.

FRED. P. STANTON,
For Jno. C. Hale.

164 I, Frederic P. Stanton, attorney for Jno. C. Hale, with a proper power of attorney on file, do make oath that I believe the facts stated in this amended petition are true. Affiant knows nothing of

any transfer of the claimant's interest in his claim, except as stated in the affidavit to the original petition, which affiant believes to be true.

FRED P. STANTON.

Sworn to and subscribed before me this 23d day of June, 1873.
[SEAL.] EDM. F. BROWN,
Notary Public.

165 In the Court of Claims of the United States, Dec. term, 1874.

JOHN C. HALE
vs.
THE UNITED STATES. } No. 6203.

The claimant moves the court for leave to amend his amended petition by inserting now herewith presented.
Jan'y 9, 1875.

FRED P. STANTON,
For J. C. Hale.

Allowed January 9, 1875.
By the court.

In the Court of Claims of the United States.

JOHN C. HALE
vs.
THE UNITED STATES, HENRY M. RECTOR, AND the heirs at law of Ludovicus Belding. } No. 6203.

166 *Amendment to petition.—Filed Jan'y 9, 1875.*

By leave of court first had and obtained, the claimant amends his amended petition, and prays the court, in the event of Henry M. Rector's claim being established to the land in dispute, that one undivided fourth of the said land be decreed to the claimant and vested in him, according to the terms of the agreement between said Rector and the claimant, set up and recited in the said amended petition. And the claimant further prays in the event the said land being awarded to the heirs at law of the said Belding, deceased, that they said heirs of Belding be held and declared to be trustees, holding said land for the use and benefit of the claimant; and that such other and further relief may be granted as to the court may seem meet and suitable to the exigencies of the case.

FRED. P. STANTON,
For the Claimant.

167 In the Court of Claims of the United States. In vacation, June, 1873.

HENRY M. RECTOR, PETITIONER,
vs.
THE UNITED STATES. } No. 6245. In equity. Filed July 1, 1873. A. H.

The said petitioner, in accordance with the order of the court, exhibits this his supplement to his petition herein, and hereby shows and makes known unto the court:

1st. That in the suit of George Mackay and William W. Gitt against

the United States, No. 6244, the said claimants pretend that on the 27th day of July, A. D. 1805, François Langlois sold all his land in the New Madrid district, Missouri, to Joseph Michel, and conveyed the same to him by good and sufficient deed, leaving to said Langlois only two lots of one arpent each, when the act of February 17, 1815, was passed, and that the said Michel died in 1810, leaving a will whereby he devised all his real estate to his three sons, who were minors, and constituting Robert McCay, his brother-in-law, his executor, with full power to settle and distribute his estate; that said executor proved the injury done by earthquake to said lands, on the 26th of November, 1818, to the satisfaction of the recorder of land-titles, and relinquished to the United States the injured lands; and on such relinquishment, applied for
168 the certificate to authorize location of other lands in lieu thereof, on which application certificate No. 467 was awarded to the legal representatives of François Langlois; and that the said executor made several applications for the certificate, but was put off by the recorder, from time to time, with no reasonable excuse.

And it is further alleged that the said Joseph Michel's estate numbered one hundred and fifty plantations, one of which is a 200-arpens survey, conveyed by Louis Tirart to Joseph Michel in 1804, which land it appears that Joseph Story relinquished to the United States.

In answer whereunto, and unto the other allegations in that petition contained, the petitioner, Henry M. Rector, insists that they do not present a case of which this court has jurisdiction; that the claim set up to the benefit of a survey and location, not made nor concurred in by said Joseph Michel, or any person under him, is a stale claim, as against this petitioner, and entitles them to no relief, even if all the allegations were true.

And he, further answering, denies that the said Langlois ever sold and conveyed to the said Joseph Michel, by any conveyance valid in law, for good consideration, the lands relinquished by François Langlois, by his attorney, Joseph Story, to the United States, as is shown in the petition to which this is a supplement. And he avers that if there ever was any such conveyance, which he denies, it was made without consideration, and in trust, to enable the said Michel to procure confirmation of said land to Langlois, who held it by inchoate and imperfect title, under a French or Spanish grant.

That the claim under one New Madrid act was confirmed to Joseph Michel under John B. Chartier, and one under John Brown, (No. 36 and 366 of Exhibit F, of New Madrid claims, filed as evidence in this case,) both of which were located and patented to him; and if he had had a bona-fide conveyance for the lands of Langlois, any location in lieu of them would also have been patented to him.

169 That four certificates were granted to François Langlois on account of his injured lands, which appear on said exhibit as Nos. 270, 271, 467, and 470; that the date of certificates 270 and 271 was 24th November, 1815; 270 was located March 14, 1821, (survey 2596,) in township 44 north, of range 11 west, and 271 on the 21st of November, 1820, (survey 2743,) in township 50 north, of range 16 west, each for 160 acres, both which locations were patented; that the date of certificate 470 was 26th November, 1818, as also was the date of certificate 467, and certificate 470 was located April 8, 1819, (survey 2900,) in township 59 north, range 6 west, 150 acres; and it appears by said exhibit that this location was patented on the 20th of April, 1848, and the patent sent to the said William W. Gitt. And the petitioner alleges that 640 acres being located in lieu of 200 arpens injured, if the estate of the said

Michel had in reality any title to the said injured lands, the matter was arranged and settled, when the last two certificates were obtained, by some compromise, by which the said Langlois or his assignee, Joseph Story, had the benefit of certificate No. 467, and he avers that the said executor, when he obtained the other certificate, knew that certificate No. 467 was issued under the assignment to Story, and consented, and, at any rate, that, knowing it and making no protest against it, either then or for fifty-two years afterwards, and the said Elias Rector and Samuel Hammond being innocent purchasers of the same for valuable consideration, the said executor and heirs of Michel, and all persons claiming under them, are now and long have been estopped to claim the benefit of a location made by said Rector and Hammond at their own expense, and to procure confirmation whereof neither the said executor nor any of said heirs, nor the said Gitt or Mackay, nor any other person claiming under said Michel or under his executor or heirs, have ever contributed a single dollar or done a single act, or taken a single step of any kind whatever.

170 And the said Henry M. Rector denies that the said executor ever made proof of the injury done to said lands of Langlois or relinquished the same to the United States; and if it be true that he made any such proof and relinquishment, certificate 467 was not issued thereupon, but that the said Langlois having, after obtaining certificates 270 and 271, sold to the said Joseph Story his right to make further location, and made him his attorney to locate for his own benefit, on the 10th of November, 1818, the said certificate No. 467 was delivered to said Story, and by him, by endorsement, assigned to said Samuel Hammond; and the said Story, as attorney in fact for Langlois, relinquished the injured lands to the United States.

The petitioner, further answering, states that the said Joseph Story obtained certificate No. 248 in his own right, and therefore was a resident of New Madrid County; and that he also obtained, under others, certificates Nos. 249 and 430, the former of which he obtained under Louis Tirart, as appears by said Exhibit F; and it appears by the allegation thereof in the petition of Mackay and Gitt that he relinquished to the United States the injured land of Louis Tirart; and if it be true that this was one of the one hundred and fifty plantations of the inventory of the estate of Joseph Michel, and *as* (as appears by said Exhibit F) the land located in lieu of that of Tirart was patented to Joseph Story, under him, on the 17th of May, 1822, it evidently appears that the conveyance of the original land of Tirart to Michel was disregarded, if any there was, probably because made for no consideration except to have the French or Spanish grant confirmed for compensation to be made to the said Michel in money, or by part of the land.

And, further answering, the petitioner says that as to all the sematters he has no personal knowledge at all, the said Michel having died before he was born, and he being an infant in 1820; and he answers by

171 the records, and upon his belief; and that as to the title of said Mackay and Gitt under said Michel, by the various conveyances alleged, he knows nothing at all.

And he makes this reply by way of supplement, a demurrer to the said petition of the said Mackay and Gitt, and a plea of lapse of time and state claim and of estoppel, and an answer denying each and all of the allegations of the petition.

2. That in the suit of said John H. Russell he relies on the title of your petitioner, Henry M. Rector, and the conveyance of the same to

him by the petitioner on the 5th of March, 1867, copied in hæc verbis in his amended petition.

For answer unto which the said Henry M. Rector, protesting that the same gives the court here no jurisdiction, further shows that on the same day of the execution and delivery of the said conveyance, (which are hereby admitted,) the said John H. Russell made his counter-instrument of writing under seal, in the presence of and witnessed by two witnesses, and on the same day by him duly acknowledged, whereby, reciting the making of said deed to him, he further recited that the petitioner, Henry M. Rector, was desirous of repurchasing all of said land except that in dispute between him and the heirs of Belding and John C. Hale, and having so repurchased, had that day paid the said Russell five thousand dollars, the receipt whereof was acknowledged; wherefore the said Russell thereby pretended to sell, grant, and quitclaim to the petitioner, Rector, and his heirs and assigns, all of said land except such one-half; and he and the petitioner were to remain joint owners of the land so in litigation; and then the said instrument continued thus:

"Provided, that within twenty days after the adjournment of the first session of the present (40th) Congress, I shall have secured and shall bring and produce to the said Rector a confirmation, entire, full, and complete, by the Congress of the United States of the title of said
172 Francis Langlois in and to said land, as named in said certificate numbered 467, as above indicated; but in case I should fail to secure and bring and produce such confirmation of title by the Congress as aforesaid, then I am to have no claim whatever in and to any of said land as named in certificate numbered 467, and the said deed from the said Rector to me of this date is to be null and void, and wholly inoperative."

With other provisions not necessary to be cited, as they in nowise qualify these, and only affect them to confirm them; all which will more fully and at large appear by an exemplification of said instrument of defeasance from the records of the county of Hot Springs, in the State of Arkansas, where the same, with the certificate of acknowledgment thereof, was duly recorded on the 7th day of March, 1867, which will be filed herewith so soon as a copy completely authenticated is obtained, and being marked "Exhibit Russell, A," is prayed to be taken as part of this supplement; and meanwhile a copy of said copy is herewith exhibited, marked "Russell's defeasance, copy," and is prayed to be taken as part of this supplement, as if set forth herein in hæc verbis.

And the petitioner, Henry M. Rector, prays that the said John H. Russell may answer this supplement, and admit or deny on oath the execution and delivery of said instrument. And, further answering, he avers that the court here has no jurisdiction of the said claim of the said John H. Russell; that the contract between him and the said Russell was one which this court would not enforce, if he had obtained confirmation of said claim from Congress; and that he utterly failed to obtain it; wherefore he pleads said defeasance in bar and relies on it by way of answer, and prays that the said suit of the said Russell and the said suit of the said Mackay and Gitt may be dismissed.

HENRY M. RECTOR,
By PIKE & JOHNSON AND
SANBORN & KING,
His Counsel.

173 STATE OF ARKANSAS, *County of* :

I, Henry M. Rector, do solemnly swear that the matters of fact

stated in the foregoing petition so far as stated of my own knowledge are true, and so far as stated as on information and belief I do verily believe them to be true: So help me God.

H. M. RECTOR.

Sworn to and subscribed before me, L. D. Beldin, judge of the circuit court for the 15th judicial circuit of Arkansas, the same being a court of record, this 25th day of June, A. D. 1873.

L. D. BELDIN,
Judge of the 15th Judicial Circuit of Arkansas.

Residence and post-office address of petitioner: Hot Springs, Hot Springs County, Arkansas. Residence and post-office address of attorneys: Washington, D. C.

Exhibit.—"*Russell's defeasance, copy.*"

Know all men by these presents that whereas Henry M. Rector has this day, for and in consideration of ten thousand dollars, ($10,000,) conveyed to me all his right and title, by quitclaim deed, in and to two hundred arpens of land, equal to one hundred and seventy and fifteen hundredth acres of land, as evidenced by certificate numbered 467, and survey numbered 2903, said certificate issued by Frederick Bates, recorder of land-titles, on the 26th day of November, A. D. 1818, lying and being in Hot Spring County, State of Arkansas, known as the New Madrid location, covering the Hot Springs; and whereas said Rector is desirous of purchasing back all of his said interest, except as to one-half of the land now in dispute and litigation between him, the said Rector, the heirs of Ludovious Belding, deceased, and John C.
174 Hale, in a suit in chancery now pending in the circuit court of said Hot Spring County; and whereas the said purchase had by said Rector, he has this day paid me the sum of five thousand dollars, ($5,000,) the receipt of which is herein fully acknowledged: Now, therefore, I do hereby sell, grant, and quitclaim unto the said Rector, his heirs and assignees, all of said land, except the one-half of the land in dispute and litigation as aforesaid; and as to said land so in dispute and litigation as aforesaid, the said Rector and myself are to be and remain joint owners; provided that within twenty days after the adjournment of the first session of the present (40th) Congress I shall have secured, and shall bring and produce to the said Rector, a confirmation, entire, full, and complete, by the Congress of the United States of the title of said Francis Langlois in and to said land as named in said certificate numbered 467, as above indicated; but in case I should fail to secure and bring and produce such confirmation of title by the Congress as aforesaid, then I am to have no claim whatever in and to said land as named in certificate numbered 467, and the said deed from the said Rector to me of this date is to be null and void, and wholly inoperative.

The one-half of the land in dispute and litigation, herein before referred to, include' and has reference to only that land in dispute between the said parties aforementioned, and does not refer to any land except that which is included within the limits, or supposed limits, of the southwest quarter of section thirty-three, (33,) township two (2) south, range nineteen west, (19 *west.*)

And said deed from said Rector to myself is not to interfere with the said Rector in any manner in his possession and receiving of rents of the property in any of it in said land until the confirmation of title as

aforesaid is procured and brought to him, and from that date he is to surrender possession thereof to myself of the one-half thereof as hereinbefore stipulated and mentioned.

175 Witness my hand and seal this 5th March, A. D. 1867.

JOHN H. RUSSELL. [SEAL.]

In presence of—
C. W. RECTOR.
THOS. H. WALKER.

[Stamp $5. March 5th, 1867. J. H. Russell.]

STATE OF ARKANSAS,
County of Pulaski:

Be it remembered that on this the 5th day of March, A. D. 1867, before me, clerk of the circuit court within and for said county and State, personally came and appeared the above-named John H. Russell, whose name is signed to the foregoing deed, and acknowledged that he had executed the same for the uses, purpose, and consideration therein named and set forth, and desired me to so certify, this the date above.

In testimony whereof I hereunto set my hand as such clerk, and affix the seal of my office in the county and State aforesaid, on the day and year last aforesaid.

[SEAL.] THOS. H. WALKER, *Clerk.*

STATE OF ARKANSAS,
County of Hot Springs:

I, Hugh McCallum, clerk of the circuit court and ex-officio recorder in and for said county, do hereby certify that the foregoing deed was filed for record in my office on the 7th day of March, A. D. 1867, and the same, with the certificate of acknowledgment thereon, is now duly recorded in record-book G, pages 466 and 467.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, March 7th, 1867.

[SEAL.] HUGH McCALLUM,
Clerk and Ex-officio Recorder.

176 In the United States Court of Claims, Dec. term, 1873.

HENRY M. RECTOR
vs.
THE UNITED STATES. } No. 6245.

JOHN C. HALE
vs.
THE UNITED STATES. } No. 6203.

WM. H. GAINES ET ALS.
vs.
THE UNITED STATES. } No. 6208.

GEORGE MACKAY AND WM. W. GITT
vs.
THE UNITED STATES. } No. 6244.

JOHN H. RUSSELL
vs.
THE UNITED STATES. } No. 6246.

GENTLEMEN: You will please take notice that on Wednesday

177 the 10th day of December, A. D. 1873, at eleven o'clock in the forenoon, or as soon thereafter as counsel can be heard, at the chambers of the honorable Court of Claims in the Capitol, a motion will be made before said court, or one of judges thereof, for leave to file a second amendment to the original petition of Henry M. Rector, which proposed amendment is herewith served upon you, and that said amendment and the records and files in all the above-entitled causes will be read and used in support of said motion.

Washington, Dec. 5, 1873.

JOHN B. SANBORN,
ALBERT PIKE,
R. W. JOHNSON,
Attys. for H. M. Rector.

To the ATTY. GENERAL.
BARTLEY and CASEY,
Attys. for Mackay and Gitt.
FRED. P. STANTON,
Atty. for John C. Hale.
JOHN WILSON,
Atty. for Wm. H. Gaines et al.
178 CHARLES E. HOVEY and
WARD H. LAMON,
Attys. for John H. Russell.

DEC. 10, 1873.—Service of within notice is hereby admitted. Copy of same received.

J. GOFORTH,
Asst. Atty. Gen'l.

DISTRICT OF COLUMBIA,
County of Washington, ss:

I, Alexander S. King, being first duly sworn, depose and say that on Saturday, the sixth day of December, A. D. 1873, I served the within notice of motion and second amendment to petition upon Bartley and Casey, Fred. P. Stanton, John Wilson, and Charles E. Hovey, as attorneys for the claimants in the above-entitled actions, respectively, by leaving copies of the same (at) the offices of the said attorneys, respectively, between the hours of ten o'clock a. m. and four o'clock p. m. of
179 that day.

ALEX. S. KING.

Sworn to and subscribed before me this 10th day of December, A. D. 1873.

WM. MARTIN, *J. P.* [SEAL.]

Filed December 10, 1873.

In the Court of Claims, December 15, 1873.

The motion for leave to file second amendment to the petition in the case of Henry M. Rector, No. 6245, was allowed, and the amendment filed.

By the court.

180 In the Court of Claims of the United States.

HENRY M. RECTOR
vs.
THE UNITED STATES. } No. 6245, and cases consolidated with it.

Second amendment to petition.—Filed Dec. 15, 1873.

Henry M. Rector, in pursuance of the order of the court, and by its leave, by this his petition and second amendment to his petition, states—

That John C. Hale, claimant in No. 6203 of these cases, pretends that by certain articles of agreement and bargain and sale, made on the 11th day of May, 1843, between this claimant and himself, (which he does not exhibit with his amended petition,) this claimant conveyed to him one undivided fourth part of his interest in the Hot Springs and of the New Madrid claim aforesaid.

The said Henry M. Rector states that the said agreement was a mutual one, by which it was agreed that if the claim of either should finally succeed the other should have a certain interest in it; one part of the agreement being the consideration for the other. The said Hale was to deliver possession to this claimant of the ground and improvements in his possession, at the springs, where he, Hale, was then living with his family, and thenceforward both were to hold possession under the New Madrid claim. Other things also were necessary to be done to consummate the bargain; for example, improvements to be valued, and a portion of them to be paid for by this claimant.

181 He further states that these things were not done, but he did take formal possession; took charge of the property, kept the tavern on it, and expended money in furnishing and fixing; but in the fall of that year, being appointed marshal of the Arkansas district, this claimant was under the necessity of removing to Little Rock, and therefore settled their partnership matters with the said Hale; and they not agreeing as to the precise division of profits of the tavern, the agreement made between them, now relied on by the said Hale, was by oral agreement abandoned, and each was left free to prosecute his own claim for his own benefit. The said Hale resumed possession, and this claimant removed to Little Rock, and there remained for several years, and has never since had possession of anything by virtue of the agreement relied on by Hale, but exclusively by virtue of a purchase in 1850 or 1851 from one Jacob Mitchell; nor has any act ever been done by either him or Hale to carry out said agreement, or to renew it, or under or in pursuant of it, or in any way recognizing it as existing, since they dissolved their partnership in tavern-keeping, and Hale resumed possession in the fall of 1843.

Wherefore, and protesting by way of demurrer that this honorable court has no jurisdiction of the matter of said agreement, and that in respect to it the amended petition of said Hale contains no manner of equity, nor makes any case for the interposition of this court, he prays, as by his original petition he has already prayed, and will ever pray, &c.

H. M. RECTOR.

PIKE & JOHNSON,
SANBORN & KING,
Of Counsel.

STATE OF ARKANSAS,
County of Arkansas:

182 I, Henry M. Rector, do solemnly swear that the matters stated in the foregoing amendment are true: So help me God.

H. M. RECTOR.

Sworn to and subscribed before me this 31st day of October, 1873.

L. D. BELDIN,
Judge 15th Judicial Circuit, Arkansas.

183 In the Court of Claims of the United States.

Amended petition.—Filed October 7th, 1873.

GEORGE MACKAY ET AL.
vs.
THE UNITED STATES. } No. 6244.

To the honorable the judges of the Court of Claims of the United States:

The petition of the undersigned respectfully represents that the original deed, conveying specifically the two hundred arpens of land, dated April 30th, 1807, lying on bayou St. John, which represents New Madrid certificate No. 467, from Francis Langlois, senr., to Joseph Michel, has recently been discovered upon the files of the U. S. Land-Office in a bundle of papers endorsed in the handwriting of Commissioner Bates "Papers belonging to Joseph Michel;" a certified copy of which, by the the register or recorder, is herewith filed as proof, marked "A," No. 4. And your petitioners further respectfully represent that

184 one Matteo Boglolio, the brother-in-law of said Joseph Michel, did institute a suit in the supreme court of Missouri against Robert McCay, executor of said Michel, to recover a portion of said Michel's estate, and a decree was entered up by said court against said executor, (see certified copy of said decree, filed as evidence, marked "Exhibit B, No. 1,") by which the said two hundred arpents on bayou St. John, and the said certificate No. 467, was awarded and conveyed to said Bogliolo by said executor. (See certified copy of executor's deed marked "Filed as evidence—C. No. 1.") And the said Bogliolo, by deed dated March 2, 1849, recorded in the U. S. recorder's office at St. Louis, (see certified copy marked "Filed as evidence—M, marked D. No. 1,") conveyed the same to your petitioner, William W. Gitt, who conveyed one-half to George Mackay, by which your petitioners claims patent.

And, in duty bound, will ever pray.

GEORGE MACKAY.
W. W. GITT,
By his attorney, GEORGE MACKAY.

185 Subscribed and sworn to before me this third October, A. D 1871, by George Mackay. In witness whereof I have hereunto set my hand and affixed my official seal.

[SEAL.] CHARLES NETTLETON,
Commissioner of the Court of Claims.

186 United States Court of Claims.

JOHN H. RUSSELL
vs.
THE UNITED STATES. } No. 6246.

Supplemental petition.—Filed July 3, 1873.

John H. Russell, petitioner and claimant, by leave of said court pre-

sents this his supplemental petition, and hereby shows to the court as follows:

1st. That in the suit of Henry M. Rector against the United States, No. 6245, the said complainant, Rector, admits that on the 5th day of March, 1867, he conveyed by a deed in writing to your petitioner, John H. Russell, all his right, title, and interest in and to the tract of land claimed and demanded by your petitioner in this suit, and your petitioner avers that the conveyance aforesaid was executed in good faith and for a valuable consideration, being then and there paid by
187 your petitioner to said Rector, and the title to said land thereby vested still remains in your petitioner. Your petitioner is advised that the said Rector asserts a claim to the land so conveyed by him to your petitioner on the 5th of March, 1867, based upon a pretended conveyance from your petitioner to him, but your petitioner avers that said pretended conveyance was a separate and distinct transaction, wholly unconnected with the transaction of the deed of conveyance to your petitioner by the said Rector of the 5th of March, 1867, and the same was given without considerations and is void. Your petitioner again reaffirms the allegations in his original and amended petition in this behalf, filed in this honorable court.

2d. In the suit of George Mackay and William Gitt against the United States, your petitioner has no definite knowledge of the character
188 of their claim to this land, but he is advised that they claim under one Joseph Michel, who pretended to have purchased a large tract of real estate in New Madrid district, in Missouri, (now the State of Arkansas,) which, it is claimed, included the lands claimed by your petitioner, which purchase, it is claimed, was made of Francis Langlois; but your petitioner denies that the said Langlois ever sold or conveyed to the said Joseph Michel said land, or any part thereof, by any conveyance that is valid in law, and your petitioner denies that the said Mackay and Gitt, or either of them, have any valid claim to this land, either equitable or legal, and he denies the allegations in their said petition so far as they are not herein specifically admitted.

Your petitioner has no knowledge of any valid existing claim to the said lands other than his own; his title is one which
189 appears of record, as is fully set out in his original and amended petition. He therefore prays that he may be permitted to have a decree for said lands and to be put in possession thereof, and for such other and further relief as may be according to equity and good conscience.

JOHN H. RUSSELL,
Per WARD H. LAMON,
Counsel.

DISTRICT OF COLUMBIA,
City of Washington, ss:

John H. Russell, the petitioner in the foregoing supplementary petition, being duly sworn, says on oath that he has read the foregoing petition, and that the statements thereof so far as they are alleged to be upon his personal knowledge are true in substance and in fact, and that the other statements of said petition he believes to be true.

JOHN H. RUSSELL.

190 Subscribed and sworn to before me this 2d of July, 1873.

R. J. MEIGS, *Clerk*,
By L. P. WILLIAMS,
Assistant Clerk.

191 *Petition.*

U. S. Court of Claims, December term, 1872.

JOHN C. HALE, (No. 6203,) WM. H. GAINES, (No. 6208,) George Mackay et al., (No. 6244,) Henry M. Rector, (No. 6245,) John H. Russell, (No. 6246,)
vs.
THE UNITED STATES.

No. 6208. Filed October 30, 1873. J. R.

And now comes John Wilson, attorney for Wm. H. Gaines and the other heirs of Ludovicus Belding, decd., claiming the southwest quarter of section thirty-three, in township two south, of range 19 west of the fifth principal meridian, in the Washington land-district, Arkansas. And in accordance with the order of your honorable court of June 4th, 1873, consolidating the above-mentioned cases, in accordance with the provisions of the act of Congress of June 11th, 1870, (Statutes at Large, vol. 16, p. 149,) entitled "An act in relation to the Hot Springs reservation in Arkansas," begs leave respectfully to state that to comply with the true intent and meaning of that order a brief summary of the case must be presented. To do this it is respectfully stated:

That the land now in controversy was included within the boundaries of a land-district established by the act of 17th February, 1818, (Stat. at Large, vol. 3, p. 406,) but at that time this land belonged to the Quapaw Indians, and was ceded to the United States by treaty made August 24, 1818, ratified January 5th, 1819, (vol. 7, p. 176.)

A register was commissioned for the land-district above mentioned on the 19th February, 1822, and the lands now under con-
192 sideration were surveyed in the first quarter of 1838, by John C. Hale, under contract of 9th May, 1837.

It is proposed to consider these claims in chronological order, and the first in that order is that of—

JOHN C. HALE, claiming under John Percifull, the southwest quarter of section 33, township 2 south, range 19 west, as a pre-emption under the act of April 12th, 1814, (5th section, vol. 3, p. 122.)

The record shows that Percifull was not entitled to this land for the reasons that this land belonged to the Quapaws till 1819, when it was ceded to the United States, and any settlement on it prior to that time did not confer any right on the settler, but on the contrary was a violation of the laws of the United States regulating trade and intercourse with the Indian tribes, and was in conflict with the decisions of the courts and the rulings of the Department on that subject. Further the inhabitation and cultivation, required by the act of 1814, are not proven; nor is it shown that Percifull, or his legal representatives, made "known his claim by delivering a notice in writing to the register of the land-office for the district in which the lands lay;" or that the purchase-money for the same was tendered two weeks before the time of the commencement of the public sales in the district, including these lands, as required by law.

The next claim in order of date is that of—

FRANCOIS LANGLOIS, under the New Madrid act of 17th February, 1815, (vol. 3, p. 211.)

Henry M. Rector, George Mackay et al., and John H. Russell all claim under Langlois.

This claim fails, first, because if surveyed prior to 1838 that survey

was a private one, made without instructions from the surveyor-general; second, because if such survey had been made under instructions from the surveyor-general, it was not returned to the recorder of land-titles until 1838, and as no right could attach to this land under that survey until it was so returned to the recorder of land-titles, according to law and the decisions of the Supreme Court, and as that
193 return was not made until after other rights had attached to the land, Langlois or his legal representatives have no right to this land.

In view of the foregoing facts, this evidently was public land up to the 29th May, 1830. This brings us to the pre-emption claim of—

LUDOVICUS BELDING, under said act of 29th May, 1830, (vol. 4, p. 420.)

The testimony shows that Belding cultivated this land in 1829, and resided upon and possessed it on the 29th May, 1830. This entitled him to pre-emption under that law; but as this land was not then surveyed he could not make the proof and payment required till such survey was made. To enable persons thus entitled to establish their rights, Congress passed the act of 14th July, 1832, (vol. 4, p. 603,) supplemental to the act of 29th May, 1830, authorizing those who were entitled under this last-mentioned law to make proof and payment within one year after the surveys were made and returned. The plat of this survey was returned June 26th, 1838; and the proof of Belding's pre-emption claim, and the tender of the purchase-money, were made 10th March, 1839, within the year as required.

It is objected, however, that the act of April 20th, 1832, (vol. 4, p. 505,) having been passed prior to the supplemental act of 14th July, 1832, reserved this land from sale, entry, or location of any kind, and excluded it from the operation of this claim.

The land was not reserved for national or State purposes, but only for the future disposal of the United States. We hold that the act of 14th July, 1832, supplemental to the act of 29th May, 1830, in reviving the last-mentioned act, repealed so much of the act of 20th April, 1832, as was inconsistent with the provisions of the act of 1830, and made such disposal of so much of this land as was justly claimed under the act of 1830, being, in fact, the future disposal of this land, contemplated by the act of 20th April, 1832.

The record also shows that the Commissioner of the General Land-Office, under the authority vested in him by law, referred all these claims to the district land-officers, with instructions to notify all the claimants, receive the testimony presented, and report the same to him, with their opinion. This was done, the land-officers reporting
194 that Belding had performed the acts required by the laws of 29th May, 1930, and 14th July, 1832, the register deciding that Belding's heirs were entitled to pre-emption; the receiver, that Belding was only tenant to Percifull. On that report, and in accordance with the authority vested in him, the Commissioner decided that Belding's heirs were entitled to pre-emption to this land under the acts above mentioned, and so reported to the Secretary of the Interior. The Secretary concurred in that view, and instructed the Commissioner to direct the land-officers to permit the entry. The Secretary was fully authorized to take this action, and under it the entry was made of this land by Belding's heirs, the usual receipt and certificate being issued to them under this law. (See the record.) That receipt and certificate remain intact and uncancelled to this day, nor has this entry been cancelled on the books of the Department.

This action was in strict conformity with the authority vested in those officers by law, and the decisions of the Supreme Court of the United States, and this action vests rights in Belding's heirs which are fully sustained by the recent decision of the Supreme Court in the case of Frisbie vs. Whitney; and the recent decision in the case of Hutchens vs. Low et al., December term, 1872.

The act of 11th June, 1870, (Stat. at Large, vol. 16, p. 149,) authorized any person claiming title, legal or equitable, to the whole or any part of the four sections constituting the Hot Springs reservation to institute suit against the United States before your honorable court to settle the same. It is shown that Belding's heirs have both a legal and equitable right to the quarter-section now at issue, and no other person has any title thereto. We therefore pray that your honorable court will so decree.

JOHN WILSON,
Attorney for Belding's Heirs.

195 In the Court of Claims of the United States, Dec. term, 1873.

JOHN C. HALE
vs.
THE UNITED STATES. } 6203.

HENRY M. RECTOR
vs.
SAME. } 6245.

MACKAY AND GITT
vs.
SAME. } 6244.

JOHN H. RUSSELL
vs.
SAME. } 6246.

WM. H. GAINES ET AL.
vs.
SAME. } 6208.

APRIL 8, 1874.

In these cases it is ordered that the claimants have all their evidence taken and put in the cases and printed on or before the first day of October next, and that the cases be set down for hearing on the 8th day of December next.

By the court.

196 United States Court of Claims.

[No. 6245 and other cases. Filed October 4, 1873. J. R.]

HENRY M. RECTOR
vs.
THE UNITED STATES. } No. 6245.

JOHN H. RUSSELL
vs.
THE UNITED STATES. } No. 6246.

JOHN C. HALE
vs.
THE UNITED STATES. } No. 6203.

WILLIAM H. GAINES ET AL.
vs.
THE UNITED STATES. } No. 6208.

GEO. MACKAY & WILLIAM W. GITT
vs.
THE UNITED STATES. } No. 6244.

Stipulation to read depositions already taken, and waiving required notice.

It is hereby stipulated and agreed by and between the claimants and parties to the above-entitled actions, and each of them respectively, that the depositions and evidence heretofore taken by Henry M. Rector in the action above entitled, wherein he is claimant, without notice to the other claimants and plaintiffs, shall be read and used upon the trial of said actions, and each of them, in the same manner and with the
197 same force and effect as if due notice had been given to the other claimants and each of them; the claimants in each of the above-entitled actions, except No. 6245, reserving the right to object to said testimony, and any portion of the same, for incompetency, irrelevancy, and immeteriality, in the same manner and with the same force and effect as if the witnesses were on examination in open court.

Washington, October 1st, 1873.

JOS. CASEY,
For Bartley & Casey, Attorneys for Mackay et al.
WARD H. LAMON,
Attorney for J. H. Russell,
By CHAS. E. HOVEY.
FRED. P. STANTON,
For John C. Hale.
JAMES HUGHES,
For Hughes, Denver & Peck.
JOHN WILSON,
Attorney for William H. Gaines and others.
JOHN B. SANBORN,
ALBERT PIKE,
R. W. JOHNSON,
By J. B. SANBORN,
Attorneys for Henry M. Rector.

It is further stipulated and agreed by and between the undersigned claimants in cases Nos. 6245 and 6208 that the claimants in cause No. 6208 shall have the right to cross-examine any witnesses that have heretofore been examined or that have testified in cause No. 6245, at any time within sixty days from this date, upon notice of ten days, and that the claimants in 6208 shall have the right to file a supplemental petition at any time within thirty days from date, and that the evidence heretofore taken by them without notice to the other claimants shall be
198 read and used in the same manner and with the same force and effect as if due notice had been given, and that any witnesses heretofore examined in either of said causes may be re-examined at the option of the respective claimants upon due notice to the other claimant,

and that any additional record testimony be filed and used without any notice by either party, and if deemed expedient or necessary by either party that the record of the case now pending in the Supreme Court of the United States between these parties may be referred to, read, and used upon the trial of these causes, and have the same weight and force, so far as the facts are the same, or said record may be applicable, as it would be entitled to or receive in said Supreme Court.

October 3d, 1873.

JOHN B. SANBORN,
ALBERT PIKE,
R. W. JOHNSON,
By J. B. SANBORN,
Attorneys for Henry M. Rector.
HUGHES, DENVER & PECK,
JOHN WILSON,
Attorneys for Belden Heirs, William H. Gaines, and others.

199 [NOTE.—The pages of this recod, referred to in the captions and cross-notes of the evidence, are those of the original copy.

J. RANDOLPH,
Asst. Clk. Ct. of Claims.]

The following evidence was received and filed in the Court of Claims of the United States, and was, upon the trial of these consolidated cases, read by Mr. F. P. Stanton, as counsel, in behalf of the claim of John C. Hale, (from page 199 to page 289 of this record.)

EVIDENCE BEFORE THE LAND-OFFICE AT WASHINGTON, ARKANSAS, IN 1837.

Statement of Sarah Perciful.

The statement of Sarah Piercifull, made on oath in the house of Samuel P. Carson, in the town of Hot Spring, in the county of Hot Spring, State of Arkansas, on the 2nd day of June, 1838.

This affiant states that on the 5th of May, 1814, she reached the Hot Springs, in company with her uncle and others, and her uncle rented a cabin and a small piece of ground from John Piercifull, who was then in possession of and claiming the springs, and all the houses, clearings, and improvements claimed by John Piercifull were on the same quarter-section with the Hot Springs, and near to the springs.

Affiant states that there were a number, probably thirty, of cabins and shelters around the springs, and between an acre and an acre and a half of land cleared, all claimed by John Piercifull, and, as far as this affiant knows, was claimed by no one else at that time.

The clearing was under fence, and the fence was an old one, and not a new rail on it as I saw and recollect, and in a condition then to be sowed or planted; and a part of it my uncle rented for a garden. The place, that is, the clearing, looked as if it had been cleared for some time, and been in cultivation for several years prior to that time.

At that time, viz, 5th of May, 1814, and a few days after, there were old corn-stalks on the portion rented by affiant's uncle, and squash-vines and cabbage-stalks and pea-sticks, and affiant understood from many persons at the springs that the clearing spoken of had been in cultivation for several years before by Piercifull, and others living in his cabins,

and to whom he had rented. Piercifull was in possession, claiming to be, and understood by all to be, the sole proprietor, and every one that came to the springs rented of him. In the summer of 1814 there was a family by the name of Foster, who stated that they had been at the same place in the summer of 1813, and that they had rented a part of the same clearing from Percifull and raised veg'tables on it.

In January, 1815, affiant was married to John Piercifull, and they have been in possession of the springs ever since. At one time they went to Red River and remained about nine or ten months; this was in 1819; but during that time Piercifull had rented as usual to persons who came to the springs, and returned once, while she was absent, to the springs. There was a Frenchman by the name of Joseph Martin, who had an improvement on the Washita, about seven miles from the springs, who became so afflicted that he was incapable of taking care of himself, and Piercifull took care of him, and he was kept and attended to after that by Piercifull and his family.

The place on Washita was claimed by Martin as his settlement-right, under the law of 1814, and he gave it to Piercifull for his kindness and attention to him. Martin lived until 1819, and then died, and Piercifull had and retained possession of that place, under the gift from Martin, before spoken of, but never claimed the place as a settlement-right.

There was a man by the name of Ebenezer Falsome, who had a settlement on the Washita River, near to that of Joseph Martin, that moved his family and cattle up, in 1814, near to the Hot Springs, and into a house that at that time looked like a new one. As this affiant recollects, there was no cultivation, or clearing, or improvement on Fulsome's place, except a pole-fence round the house, and a cow-pen.

In 1815, this affiant thinks, Fulsome got a man by the name of Lovelass to run off his settlement right at his place, on the river, and claimed it under the pre-emption law of 1814, and never, as far as this affiant knows, in his life-time made claim to the springs by virtue of the house and improvements before spoken of; but that house was made to bring his family up, for the use of the water, and give his cattle the benefit of the summer range.

Piercifull came to the springs in 1809, as he told this affiant before they were married, and commenced his improvements, and he made many persons build these houses for the use of the water and board.

John Piercifull died the 26th July, 1835, and has but one child, David Piercifull, who is his only heir, and this affiant is his widow.

The possession of the springs has never been relinquished, but has continued in S. Piercifull and this affiant from 1814, as this affiant knows of her own personal knowledge, up to this date, the 2nd June, 1838, without interruption.

And further this deponent saith not.

her
SARAH + PIERCIFULL.
mark.

Sworn to before me, and subscribed in my presence by Mrs. Sarah Piercifull, to me personally well known, at the Hot Springs, in Hot Spring County, in the State of Arkansas, this 2d day of June, A. D 1838.

DANIEL RINGO,
Chief-Justice of the Supreme Court of the State of Arkansas.

200 *The statement of Warren Dunham, made at the same time and place and on oath.*

Affiant reached the Hot Springs on the 18th of June, 1814, and found between twenty and thirty cabins erected about the springs, and about an acre and a half of land cleared and under fence, and had the appearance of having been cultivated for several years before; and a man by the name of John Gibbons told affiant that he had rented a part of it for two years before from John Piercifull, and cultivated it when affiant reached the springs. The clearing was under cultivation, principally in corn, beans, and cucumbers, and they were growing finely..

John Piercifull claimed to be the proprietor of the place; and all that come got in by his consent and rented of him, and no other person at that day, that this affiant ever heard of, set up a claim to the springs, and the possession has continued in him and his widow up to this time, as this affiant believes. Mrs. Piercifull, the widow of John Piercifull, was at the springs when this affiant reached here in 1814.

Ebenezer Fulsome lived on the Washita River. His clearing and cultivation and permanent residence in 1814 was at that place, and he told affiant he claimed that under the law of 1814; and he asked affiant that if he had it surveyed if it would not be good evidence of his settlement-right, and entitle him to the whole quarter-section, and he had the survey made and a plot taken, which this affiant saw in 1822 or '3.

This affiant always understood from him that he claimed the place on Washita by virtue of his settlement and improvement, and no other, and he was fearful, without he had a survey & plot, that he might not hold all of that. Affiant lived with him in the winter of 1814–'15 at his place on the Washita, and he had the survey made that winter. He had ten or fifteen acres cleared and under fence, and they looked as if they had been cultivated for several years. Fulsome was killed in 1817, and his widow and family have remained in possession of that place ever since.

Fulsome had a small house near the springs, and on the 4th of July, 1814, when this affiant was at the house, there was no clearing and no appearance of cultivation. This affiant is certain that he saw not a hill or a stalk of any vegetable growing, and they left in August, and Fulsome told affiant that he built the house and moved up here in the summer for the benefit of the stock-range and to sell his butter & milk and beef at the springs, but certainly claimed no right, or ever disputed Piercifull.

WARREN DUNHAM.

Sworn to before me and subscribed in my presence by Warren Dunham, to me personally well known, at the Hot Spring, in Hot Spring County, in the State of Arkansas, this second day of June, A. D. 1838.

DANIEL RINGO,
Chief-Justice of the Supreme Court of the State of Arkansas.

Additional testimony of Warren Dunham, July 2nd, 1838.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that on the 2nd day of July, in the year of our Lord eighteen hundred and thirty-eight, Warren Dunham personally came before me, the undersigned, a justice of the peace within and for the said county of Hot Spring, in the State aforesaid, and, being by me first duly sworn, deposeth and sayeth that the deposition

made by him, the said Dunham, on the 2nd day of June ult., before Daniel Ringo, chief-justice of the supreme court of the State of Arkansas, with regard to the pre-emption right of the widow & son and only heirs of John Piercifull, dec'd, to the quarter-section of land which includes the "Hot Springs" is true; and said Dunham further swears that the said springs *in* included in the southwest quarter of section thirty-three, in township two south of the base-line, in range nineteen west of the fifth principal meridian.

This affiant further states that, in the year 1828, John Piercifull, dec'd, leased the said Hot Springs and improvements to one Lodivicus Beldon for the term of five years, who remained in the possession of said property for two years or thereabouts, & then sold his lease to one Asa Thompson. He, Thompson, remained in possession for one year or near that time, and then sold the lease for the remaining two years to Richard C. Hawkins, who delivered over the possession to Piecifull at the expiration of the time. There was a garden, cultivated by Piercifull, about half of which is on the quarter-section before described, and was cultivated for many years in vegetables of various kinds, a corn-patch for roasting-ears, &c. The said garden was cultivated by Beldon in the years 1828 & 1829, & afterwards by Thompson & Hawkins. This deposition is annexed by wafers to the before-mentioned deposition made before Daniel Ringo, chief-justice, in presence of the subscribing justice of the peace, & in presence of the clerk of the superior court for said county. Affiant also states that Beldon cultivated, in the years 1828 & 1829, a garden near the houses, & which is entirely included in the quarter-section described. Affiant also states that he knows the principal facts set forth in the deposition of Sarah Piercifull in the premises aforesaid to be substantially true.

WARREN DUNHAM.

Sworn to before me and subscribed in my presence by Warren Dunham, to me personally well known, at the Hot Springs, in Hot Spring County, in the State of Arkansas, this 2nd day of July, A. D. 1838.

S. A. EMERSON, *J. P.*

I, S. A. Emerson, the subscribing justice of the peace for the county & State aforesaid, do certify that I have been acquainted with Warren Dunham, the subscribing witness to the foregoing deposition, for some years, & that the said Dunham has filled the office of county judge for some years past, and bears an unblemished character for truth & honesty, and is entitled to full faith & credit on oath. Date above written.

S. A. EMERSON, *J. P.*

Additional testimony of Sarah Piercifull, July 2nd, 1838.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that on the 2d day of July, in the year of our Lord one thousand eight hundred & thirty-eight, Sarah Piercifull personally came before me, the undersigned, a justice of the peace in and for the county of Hot Spring & State aforesaid, and being by me first duly sworn, deposeth and sayeth that, in addition to the deposition made
201 by her, the said Sarah, before Daniel Ringo, chief-justice of said State, on the 2d day of June ultimo, in the case of a pre-emption

right having been claimed by her late husband, John Piercifull, dec'd, & which claim includes the Hot Springs, deposeth and sayeth that she is unlearned, & has no knowledge of letters or figures, & therefore cannot say, of her own knowledge, anything about sectional township or other lines, but from what she was told by the deputy surveyor, (Mr. Hale,) who surveyed the township, or the part on which she lives, and also from what she has been told by others who understand, she believes the quarter-section which contains and includes the Hot Springs to be the southwest quarter of section thirty-three, (33,) of township two south of the base-line, in range nineteen (19) west of the fifth (5th) principal meredian. Affiant further states that one Lodovico Beldon leased said springs and improvements from her husband, John Piercifull, in the year 1828, for the term of five years, & that said Beldon lived on the said quarter-section, which includes the springs, & cultivated a garden which had for many years before been cultivated by Piercifull or his lessees, about one-half of which clearing is on the quarter-section which includes the Hot Springs, as above described, for two years, to wit, the years 1828 & 1829; and the said Beldon also cultivated a garden attached or near to the houses he occupied, all of which garden is included in the quarter-section before described. The before-mentioned gardens were cultivated in various vegetables and some corn in both the years which Beldon resided at the springs, to wit, in the years eighteen hundred and twenty-eight and eighteen hundred and twenty-nine, (1828 and 1829.) Affiant further states that in the latter year, (1829,) or thereabouts, he, Beldon, sold his lease to one Asa Thompson; said Thompson occupied said springs for one year, & sold out to Richard C. Hawkins, who kept the springs the remaining two years and then delivered the possession over to Piercifull. Piercifull shortly afterwards sold half his interest to said pre-emption to James Conway, esqr., now governor of the State, and the springs were leased to or put in the possession of Samuel Rayburn, brother-in-law of said Conway, and since the death of my husband I purchased the right of Governor Conway, which had been conveyed to him by my husband, & he conveyed to me by deed; all of which is matter of record in the office of the clerk of the court for Hot Spring County & State aforesaid, & the possession was restored to her, & the said Sarah, & her son David, to her in right of the half sold by her husband, & reconveyed to her by Conway and to her son in his own right, as only heir to the remaining half, and which possession I, the said Sarah, have held in person ever since.

her
SARAH + PIERCIFULL.
mark.

Sworn to and subscribed in my presence by Sarah Piercifull, to me well known, & who is entitled to full faith and credit on oath, at Hot Springs & State aforesaid, on the 2nd day of July, A. D. 1838.

S. A. EMERSON, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring:

Deposition of David Piercifull.

Be it remembered that on the 2d day of July, in the year of our Lord one thousand eight hundred and thirty-eight, (1838,) David Piercifull personally came before me, the undersigned, justice of the peace in and

for the county of Hot Spring & State aforesaid, & first being duly sworn by me, deposeth and sayeth:

That he is the son & only surviving child of John Piercifull, dec'd, (as he is advised and believes,) & of Sarah Piercifull, widow of said John, dec'd; that he, (David,) according to the family record, was born on the eleventh day of December, 1815; that since his first recollection, his father, the said John Piercifull, dec'd, claimed the Hot Springs under a pre-emption right, having been, as he stated to this affiant, the first person who made improvements with the intention of claiming them by virtue of a settler's right; and said affiant further states that he never heard of any other claim until some time in the year 1820. He has understood that James Conway, now governor of the State, run out a tract of land, including the springs, called a "New Madrid claim." The statements of Sarah Piercifull, his mother, and Warren Dunham, esqr., who have testified in this case, affiant states to be true, to the best of his belief & knowledge, all at least which have occurred since his recollection.

Affiant further states that the quarter-section of land which includes the Hot Springs, and for which him and his mother now make application in right of John Piercifull, dec'd, is the southwest quarter of section thirty-three of township two south of the base-line, in range nineteen west of the fifth principal meredian; and further this deponent sayeth not.

DAVID PIERCIFULL.

Sworn to and subscribed in my presence by David Piercifull, to me well known, & entitled to full faith & credit on oath, at the Hot Springs, State aforesaid, on this 2d day of July, 1838.

S. A. EMERSON, *J. P.*

July term of county court, A. D. 1838.

STATE OE ARKANSAS,
County of Hot Spring:

I, Ira A. Sabin, clerk of the circuit court, and ex-officio recorder for the county of Hot Spring in the State aforesaid, do hereby certify that S. A. Emerson, the subscribing justice of the peace to the foregoing affidavits or additional testimony of Warren Dunham and Sarah Piercifull, and also to the original deposition of David Piercifull, all of which testimony in favor of the pre-emption right of John Pierciful, deceased, to the quarter-section of land therein described, and which includes the Hot Springs, and which is hereunto annexed by thread and wafers, is an acting justice of the peace in and for said county of Hot Spring and State of Arkansas, and that all his official acts as such are all entitled to respect, faith, and credit. Given under my hand and seal of office this 2nd day of July, A. D. 1838.

[SEAL.] IRA A. SABIN, *Clerk.*

July term of county court, 1838.

STATE OF ARKANSAS,
County of Hot Spring:

I, Granville Whittington, judge in and for the county court of Hot Spring County, now in session, do certify that Ira A. Sabin,
202 whose official signature and seal of office accompanies the fore-

going deposition, as stated in his certificate, is the clerk of said court in and for said county, and that all his official acts are entitled to full faith and credit.

Given under my hand and seal, in term time, July second, A. D. 1838.

G. WHITTINGTON, [SEAL.]
Judge of the County Court.

STATE OF ARKANSAS,
County of Hot Spring:

I, Ira A. Sabine, clerk of the circuit court in and for the county of Hot Spring, county and State aforesaid, do hereby certify that Granville Whittington, whose signature is placed to the above certificate, is at this time the legal judge of the county court of Hot Spring County, in the State aforesaid.

In testimony whereof I have hereunto set my hand and affixed the seal of my office this 2nd day of July, A. D. 1838, and of our Independence the sixty-second year.

[SEAL.] IRA A. SABIN, *Clerk.*

STATE OF ARKANSAS,
County of Pulaski, set:

Richard C. Hawkins, being first duly sworn, states on oath that, in the year 1828, Ludovicus Belding leased the Hot Springs, in Hot Spring County, Ark's, from John Piercifull, and took possession of them the same year, for five years. In the early part of the year 1830 Asa Thompson took possession of the springs, under Belding's lease, for the residue of his term; and on or about the 21st of August of the same year (1830) this affiant bought out the lease from the said Thompson for the last two years of the said lease, commencing on the 1st January, 1831, and ending the first of January, 1833, on which day, to wit, the 21st of August, or thereabout, the said John Piercifull, Belding, Thompson, and this affiant met together, and by consent and agreement of each of them, and in the presence of all of them, the lease of Piercifull to Belding and the sub-lease from Belding to Thompson for the residue of his term of five years as aforesaid were cancelled and surrendered up, and this affiant became the lessee of the said Piercifull, and executed his obligations to him for the same for the two remaining years of the term aforesaid, and delivered possession of the same to the said Piercifull in pursuance thereof.

This affiant has been acquainted with the affairs at the springs since May, 1829, and the right to the springs, of whatever character it may have been, was recognized by all the tenants to be in the said Piercifull, and in the year' 1829, 1830, 1831, & '2, from a half acre to an acre of land near to the springs, and on the same quarter-section, as this affiant is informed and believes, was in cultivation as a garden and truck-patch, in which were raised corn, peas', beans, potatoes, cabbage, &c.; and the said affiant states that in the year eighteen hundred and twenty-nine the said Belding was in possession and cultivated said ground as aforesaid under the said lease from said Piercifull; and in the year 1830, and up to the first of January, 1831, the said Thompson was in possession of the said place under the lease aforesaid.

And further this affiant sayeth not.

RICHARD C. HAWKINS.

ARKANSAS, STATE OF,
Pulaski, County of, set:

This day the within-named Richard C. Hawkins appeared before me,

a justice of the peace in and for the county aforesaid, and made oath according to law to the foregoing affidavit, and signed and acknowledged the same in my presence, in Little Rock, 22nd June, 1838.

JOHN HUTT, *J. P. P. C.*

The statement of Silas Dodd, made at the office of Jessee Brown, esqr., in the town of Little Rock, Pulaski County, Ark's, on the 6th June, 1838, on oath.

This affiant states that in 1812, and he thinks in the month of June, he was at the Hot Springs, in Arkansas, and that John Piercifull, dec'd, was in the possession of them. There were several cabins around the springs, and about an acre cleared, fenced round, and in cultivation in peas', beans, pumpkins, and other truck; and affiant understood from Piercifull, and every one there, that it was Piercifull's.

Affiant states that he understood and from all the information he had at the time, viz, 1812, he verily believes the place and improvement belonged or was claimed by John Piercifull, dec'd, and that was the belief and statement of every one at the springs with whom he spoke on the subject, and it was frequently the subject of conversation, and he never heard of any other claim at the time.

Affiant has been long acquainted with Warren Dunham and Mrs. Sarah Piercifull, widow of John Piercifull, dec'd, and states that any facts stated by them on oath are entitled to the greatest credit, and their characters for veracity and truth never has been impeached so far as this affiant knows or believes.

SILAS DOD.

Subscribed and sworn to before me, Jesse Brown, mayor of the city of Little Rock and justice of the peace, by the said Silas Dodd, according to law.

Given under my hand this 6th day of June, 1838.

J. BROWN, *Mayor.*

LAND-OFFICE, WASHINGTON, ARK.,
27th September, 1838.

We, the undersigned, register and receiver as aforesaid, certify that the foregoing is a true copy of the original depositions now on file in this office.

D. T. WITTER, *Recr.*
GEO. CONWAY, *Regr.*

Decision of register and receiver.

LAND-OFFICE, WASHINGTON, ARKANSAS,
27th September, 1838.

This claim is rejected, it appearing from the official plat on file in the register's office that a portion of the land herein described, and the part sought to be entered by claimants, having been located by New Madrid certificate No. 467 in the name of Francis Langlois, or his legal representatives, for two hundred arpens.

GEO. CONWAY, *Register.*
D. T. WITTER, *Rec'v'r.*

(See letter to R. & R., 20 April, 1839.)

203 (Indorsed:) No. 113. G. L. O. Received from R. & R., Washington, Ark's, on the 29th Dec., 1838. No letter accompanied the same from said R. & R. Certified copy sent to clk. ct. Aug't 7, 1855.

Affidavit of Sarah Percifull.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that Sarah Percifull, the widow of John Percifull, dec'd, in wright of hurself and John Percifu' heirs, this day personally appeared before me, the undersigned, an acting justice of the peace within and for the county aforesaid, and on hur oath deposes and says that she is about fifty years of age; the widow of the said John Percifull, dec't; the head of a fam'ly, consisting of hurself, one child, & one slave; for nere thirty years she has been an actual sett'er on the publick land of the United States, on a tract knowen and designated as the southwest qu'rter of section thirty-three in township No. two south, of range nineteen west of the 5' p. m., in the district of lands subject to sale at Washington, Arkansas; that she removed from Mys'issippi duren' the C'eek Indian ware, and ar'ived at Hot Springs earley in the spring of 1814, at the house of the said John Percefulls, and rented a house and garden of said Percifull, whare she rema'ned and cultivated vegetables in said spring & som'er of the year A. D. 1814; and that the said Percifull also cultivated a garden in s'd spring & sum'er of 1814, at the Hot Springs, now imbrased by said qu'rter-section of land. He told hur that he had cultivated said garden in the year A. D. 1812, eighteen hundred & twelve and thirteen; and that he, the said Percefull, had settle' on said plase at s'd Hot Springs A. D. 1807, and from the sise of the peach-trees he had inclosed left hur without grounds to doubt his, s'd Percifull's, statement. She fourther deposes and that afterward, in the month of Janua'y, A. D. 1815, she was married to the s'd John Percifull, de'c't, and that hur and hur said husband, John Percefull, has held, by personal residence, s'd qu'rter-section of land by themselves and tenants ut to the time of his death, which took place A. D. 1836, & since by hurself & legal reprosin'tives; and further deposes and says ne'ther hur nor hur husband, John Percefull, never has claimed the right of pre-emption to any other part of the publick domain, and the dec'd without owning or possessing one acre of his c'untrey's soil; and she still remain' eaqually destitute of any part thereof; faurthermore she sayeth not.

her
SARAH + PERCIFULL.
mark.

Is sware on to and subscribed before me, after reading allowed the forg'in' deposition, this 12th of October, 1843.

ISAAC MILLER,
A Justice of the Peace.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that Thomas Holman personally appeared before me, an acting justice of the peace, and deposes and says, on oath, that he has been acquainted with John Percifull, in the foreg'in' deposition, for thirty-three years, & also with Sarah Percifull, the widow of the said John Percifull, for thirty years, or thereabout; and feaurther deposes and says that the said John Percifull did build the first house at Hot Springs, in the years A. D. 1811 or 1812, and *and* that the said John Percifull did cultivate on said qu'rter-section of thirty-three section, set fourth in the for'going deposition, in the years of A. D. 1812 and

thirteen, and said house ware built previous to those years, and that he was in possesseon, by personal residence of himself and his family and tenants at said springs up to his deeth, and that all the matter & things set fourth in hur said for'goen' deposition relitive to the right of a pre-emption is true in substance and in fact; faurth'more he says not.

THOMAS HOLMAN.

Sworen to and subscribed before me on the 12th October, 1843.

ISAAC MILLER, *J. P.*

I, Isaac Miller, so certify that the for'goin' depositions are entitled to full wail and credit, as the persons are of undoubted varasity.

ISAAC MILLER.

I this day examoned the for'goin' depositions given by Sarah Percifull & Thomas Holman, with boath of whome I have been acqua'ntant for twenty years, and know them to be of undoubted c'arrecter, & fou'ther know that the said Sarah Percifull did reside at the Hot Springs, & whare she was then keeping a bo'rding-hous', in the year of 1820, at said Hot Springs, on the qu'rter set fourth in said deposition, this the 27th of Oct., 1843.

PHILIP S. PHYSICK.

I admit a legal tender of two hundred dollars in gold coin as the amo'nt of purchase-mon'y for the lands herein described, which was refused on the grounds set forth in this paper.

D. T. WITTER, *Receiver.*

NOV'R 10TH, 1843.

Certified copy sent to clk. ct., Aug't 7, 1855.

This application for a pre-emption under the act of 12th April, 1814, is rejected on the following grounds, to wit:

First. The lands claimed were ceded to the United States by the Quapau Indians in 1818, and were not subject to pre'mption under the act of 1814, as p'r opinion of Attorney-General of the 3d May, 1836.

Second. The land' claimed was reserved from sale or entry by act of Congress of the 20th April, 1832, and are not, in the opinion of this office, taken out of the provisions of that act by the act of March 1, 1843.

Third. That, admitting the validity of the settlement, the claimant in her proof herein has failed to make out her case under the act of 12th April, 1814.

D. T. WITTER, *Receiver.*
SAML. O. WHEAT, *Register.*

(Indorsed:) Affidavit of Sarah Percifull's evidence in support of her pre-emption. (Schedule B, paper D.) G. L. O. Rec'd in letter of Hon. Edward Cross, dated December 4, 1843. See letter to Hon. E. Cross in reply, dated 6th Dec., 1843. No. 87.

204 *Letter of T. H. Blake, Commissioner of the Land-Office.*

GENERAL LAND-OFFICE, *March 1st*, 1843.

SIR: On yesterday you deposited in this Office an act which you informed me had passed both Houses, entitled "An act to perfect the titles to lands south of the Arkansas River, held under New Madrid locations and pre-emption rights, under the act of one thousand eight hun-

dred & fourteen," & applied for a patent to issue (when the act became a law) for the New Madrid location, per location cert. No. 467 of Francis Langlois.

This location is on the Hot Springs of Arkansas.

On examination I find that by the 3d section of the act of April 20th, 1832, entitled "An act authorizing the governor of the Territory of Arkansas to lease the salt springs in said Territory, & for other purposes," it is provided "that the Hot Springs, in said Territory, together with four sections of land, including said springs, as near the centre thereof as may be, shall be reserved for the future disposal of the United States, & shall not entered, located, or appropriated for any other purpose whatever." This reservation has actually been made & properly designated on the township plat.

It will be perceived that the 2d section of the act presented by you provides "that in all cases in which the locations so made on the south side of the Arkansas River may have been sold, & the lands thus located under the act aforesaid have been appropriated by the United States, the owners of the warrants issued under the provisions of the act aforesaid (1815) shall have a right to enter elsewhere under restriction as to time." Now, it is considered that the act of 1832 has imposed such a restraint, by reservation of these springs, as to exclude them from the operation of the act filed by you; and on this ground your application for a patent, it would seem, cannot be complied with.

It appears also that the land covered by the said New Madrid location has been claimed under the pre-emption act of 1814, by the widow and heirs of John Percifull, dec'd; also, under the pre-emption act of 1830, by L. Belding.

The Perciful claim was decided against on the ground that it is south of the Arkansas River, in a tract of country ceded subsequent to 1814 by the Quapaws.

The difficulty on this score would be removed by this act, but still the claim is considered barred by the aforesaid act of 1832.

If it were not barred by that act, it would seem to have precedence by priority to the New Madrid claim, & on that ground also the latter would be inadmissable.

The aforesaid pre-emption claim under the act of 1830 was rejected in view of the said act of 1832, and if that act of 1832 did not apply to the said pre-emption claim under the act of 1830, the claim under the act of 1830 would prevail, (if found regular in all other respects,) on the ground of prior validity, both against the pre-emption claim of 1814 & the New Madrid location, since it was on lands which had been ceded by the Quapaws prior to the act of 1830.

You will observe, then, that the objection to the pre-emption case is equally applicable to the New Madrid location, & if that objection did not obtain against those claims, then the pre-emption of 1830 (if valid in other respects) would prevail against the New Madrid location.

From what appears in the foregoing, it will be seen that this Office is not authorized to patent this New Madrid location; provision, however, is made for it in the 2d section of the act as hereinbefore mentioned.

Very respectfully, your obt. servt.,

THO. H. BLAKE,
Commissioner.

Gov'r J. S. CONWAY, *Present.*

Deposition of witnesses before the register and receiver at Washington, Ark., Jan. 20, 1851, on re-examination of the case.

HEMPSTEAD COUNTY,
State of Arkansas, sct:

Deposition of witnesses produced before the register & receiver of the land-office at Washington, Arkansas, in support of the pre-emption claim of John Pierciful, dec'd, on this 20th day of January, A. D. 1851.

Mr. DAVID BASSETT, being first duly sworn, testifies and says as follows, to wit:

I have seen Silas Dod, but have no particular acquaintance, and believe him to be dead. I did know Warren Dunham, and believe him to be dead. I did also know Thos. Holman, and believe him to be dead. Mrs. Perciful, Holman, & Dunham did reside in the neighborhood of the Hot Springs. I know of their residing there. I don't recollect at what time they died, but they did reside in the neighborhood up to the time of their death. They have been dead for a number of years. I am at a loss to know at what time they did reside there. They were there in 1828 & 1829, I believe. I came there in February, A. D. 1828, and found Mr. Holman, Mr. Dunham, & Sarah Perceful were there, residing in the neighborhood of the Hot Springs. I am acquainted with the character of Mr. Dunham.

(Difference of opinion expressed with regard to the admissibility of testimony regarding the characters of Mrs. Perceful by the register & receiver; consequently the testimony is admitted. The receiver objects upon the grounds that there has been no attempt made to invalidate the testimony of Mrs. Perciful, Mr. Dunham, & Holman, in that the register & receiver know neither of the parties. The regr. & receiver admit that they know nothing of either of the parties, whether living or dead.)

I am acquainted with the character of Sarah Perciful, and know it to be good for truth and veracity, and worthy of belief on oath. I am also acquainted with the characters of Warren Dunham and Mr. Holman, and know them to be men of truth and veracity, and know them to have been worthy of belief upon oath. I know but little of Mr. Dod, therefore cannot tell respecting his character.

DAVID BASSETT.

Sworn to and subscribed before me this 20th day of January, A. D. 1851.

B. F. HEMPSTEAD, *Rec'r.*

205 And also at the same time and place appeared SAMUEL SORTER, and, first being duly sworn, testifies as follows, to wit:

I am the person whose testimony was taken heretofore in support of the Hot Springs pre-emption claim in the name of Ludovicus Belding. I was acquainted with Mr. Dunham. I don't recollect at what time I became acquainted with him, (Warren Dunham,) but did know him to reside at the Hot Springs in A. D. 1835, and was acquainted with him from thence up to the time of his death. He resided at and in the neighborhood of the Hot Springs during my acquaintance with him, and up to his death. He possessed a good character, as far as I know, and was worthy of belief upon oath. I was acquainted with

Thomas Holman. I first knew him at the Hot Springs, about the year 1829. I knew him till his death. I always understood him to be a good man, and I would believe him under oath. I did not know Silas Dod. I have heard of a person by that name, who was said to be a preacher, in the neighborhood of the Hot Springs; have known Mrs. Percifull from 1829 until her death, and should consider her worthy of belief on oath. I believed her to have been a good woman and worthy of belief on oath. And further he says not.

SAML. SORTOR.

Sworn to and subscribed before me this 20th day of January, 1851.

B. F. HEMPSTEAD, *Rec'r.*

And also, at the same time and place, appeared ABNER HIGNIGHT, and, first being duly sworn, testifies as follows, to wit:

I was acquainted with Silas Dod. I first saw him at what is called the Warm Spring Landing, on the Ou'chita. He went out there and attended the springs. He was there and was living at Mr. John Percifull's at that time; that was in 1812, I think. I was acquainted with him (Mr. Dod) more or less until his death. I knew nothing against his character for truth and veracity, and would certainly believe him under oath.

Cross-examined by Henry M. Rector:

I do not know that I have ever seen the deposition of Mr. Dod heretofore taken; but I do not know the substance of his testimony.

And further deponent sayeth not.

ABNER HIGNIGHTT.

Sworn to and subscribed before me this 20th day of Janua'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

No. 1.

And also, at the same time and place, appeared WILLIAM DAVIS, and, first being duly sworn, testifies as follows, to wit:

I was acquainted with Warren Dunham in his life-time; also with Thomas Holman and Mrs. Sarah Percifull; used to be acquainted with Silas Dod, but cannot tell when.

Ques. Were you acquainted with the character of Warren Dunham among his neighbors for truth and veracity?

Ans. I was.

From his character among his neighbors, would you believe him upon oath?

Ans. I should.

Were you acquainted with the character of Thomas Holman for truth and veracity among his neighbors?

Ans. I was.

From his character among his neighbors, would you believe him on oath?

Ans. I would.

Were you acquainted with the character of Mrs. Sarah Percifull among her neighbors for truth and veracity?

Ans. I was.

From that acquaintance, would you believe her under oath?

I certainly should. I lived a neighbor to her for a little upwards of twenty years.

Were you acquainted with the character of Silas Dod among his neighbors for truth and veracity?

I can't say that I was particularly, but have seen him several times. I knew the man many years since in Magoy Cove.

And further deponent sayeth not.

his
WILLIAM + DAVIS.
mark.

Sworn to and subscribed before me this 20th Jan'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

No. 2.

And also, at the same time and place, appeared JONATHAN IRONS, and, first being duly sworn, testifies as follows, to wit:

I was acquainted with Warren Dunham in his life-time; also with Thomas Holman and Mrs. Sarah Percifull.

Were you acquainted with the character of Warren Dunham among his neighbors for truth and veracity?

I was.

From his character among his neighbors, would you believe him on oath?

I should.

Were you acquainted with Thos. Holman's character for truth and varacity among his neighbors?

I was. He was said to be a truthful man.

Would you believe him on oath?

Yes.

Were you acquainted with the character of Mrs. Percifull for truth and veracity among her neighbors?

I was.

From that acquaintance, would you believe her under oath?

Yes; I would

Were you acquainted with the character of Silas Dod for truth and veracity among his neighbors?

I was, slightly.

From that acquaintance, would you believe him under oath?

206 Yes, I would.

How long have you known the above-mentioned persons previous to their death?

Ans. I cannot tell when they died, but became acquainted with them about the year 1825 or 1826.

And further deponent sayeth not.

JONATHAN IRONS.

Sworn to and subscribed before me the 20th Ja'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

And also, at the same time and place, personally appeared WILLIAM C. KELLEY, and, being first duly sworn, deposes as follows, to wit:

I was acquainted with Warren Dunham in his life-time; I was also acquainted with Thos. Holman and Mrs. Sarah Percifull. I was not acquainted with Silas Dod; I never saw him.

Were you acquainted with the character of Warren Dunham for truth and veracity among his neighbors?

His truth and honesty was not relied on, I think, among his neighbors in some instances.

Were you acquainted with the character of Mrs. Percifull for truth and veracity among her neighbors?

Very well; she was a first-rate lady; as good as Arkansas contains.

From that acquaintance, would you believe her upon oath?

Yes, I would.

Were you acquainted with the character of Thos. Holman for truth & veracity among his neighbors?

I have been acquainted with Mr. Holman; we were raised from boys together. I think him a truthful and reliable man.

From this acquaintance with him, would you believe him under oath?

Yes, I should think his testimony ought to be good.

And further deponent says not.

his
WILLIAM + C. KELLEY.
mark.

Sworn to and subscribed before me this 20th day of Jan'ry, 1851.
B. F. HEMPSTEAUD, *Rec'r.*

Also, at the same time and place, personally appeared RICHARD C. HAWKINS, and, being first duly sworn for the purpose, deposes and says as follows, to wit:

Ques. Were you acquainted with Thos. Holman & Warren Dunham?

I was.

Were you acquainted with the character of each for truth and veracity among their neighbors?

So far as I knew the men, they were considered credible men.

From this acquaintance, would you believe them when under oath?

I certainly should in any case where they were not directly interested.

Cross-examined by Henry M. Rector:

Have you ever seen the depositions of Mr. Holman?

Yes; I saw the deposition of Mr. Holman this morning.

Did Mr. Holman ever tell you that the facts were different from what they are stated in said deposition?

Yes; Mr. Holman has frequently told me the facts were different from what they are stated to be in his said deposition.

What was his statement about the facts?

So far as my recollection serves me, Mr. Holman told me that he was quite a youth at the time the improvements were made at the springs. But he informed me that the first improvements were made by a Frenchman about the years 1811 & 1812, and that they occupied them about this time, and when they went away they sold their improvements to John Percifull. Mr. Holman has told me frequently that Mr. Percifull had camped and hunted at *at* the Hot Springs for several years; but that the first houses and cultivation at the said springs was by a Frenchman, (whose name I do not recollect,) and when he left he gave or sold his improvement to Mr. John Percifull. This was about or within the years of 1811, 1812, or 1813.

Ques. Did Holman in any of these conversations ever tell you where he, Percifull, lived about that time?

He told me that he lived near the mouth of the Gulpha, on the Ouachita River, at that time, say from 1811 to 1813.

What time did Holman tell you that Mr. Percifull came to reside at the Hot Springs?

Ans. He told me that Mr. Percifull never did permanently reside and cultivate at the springs until 1815.

Did Mr. Holman ever tell you that he had ever been a member of his (Mr. Percifull's) family?

Ans. I do not recollect that he did.

Question on the part of Percifull:

Did Mr. Holman tell you that the facts in his deposition were not correct, or do you mean to say that what he told you were facts different from those stated in the deposition?

I have not seen Mr. Holman since he made that deposition, nor for years before. What he told me was between 1829 & 1832, whilst I was living at the Hot Springs.

And further he says not.

RICHARD C. HAWKINS.

Sworn to and subscribed before me this 20th Ja'y, 1851.

B. F. HEMPSTEAUD, *Rec'r.*

No. 3.

Testimony introduced at the same time and place on the part and behalf of Henry M. Rector, and here offered by Mr. Stanton at the request of Mr. Albert Pike, counsel for Henry M. Rector, as part of the whole.

And also appeared, at the same time and place, as aforesaid, JACOB BARKMAN, who, being first duly sworn, deposes and says as follows, to wit:

Ques. Were you acquainted with Mrs. Sarah Percifull, the wife of John Peacifull, dec'd, the claimant of said Hot Springs?

Ans. I was acquainted with her before she was married, and have been acquainted with her since.

207 Do you know when she came to the Hot Springs in Arkansas?

I think it was in the fall of the year 1813 or 1814.

Were you acquainted with Warren Dunham?

Yes.

Do you know when he came there?

I think about 1814 or 1815.

Did you ever have any conversation with him about the claim of Percifull to the Hot Springs?

Yes, frequently. Warren Dunham lived with me one or two years. In the course of that time we had several conversations relative to Mr. Percifull's claim to the Hot Springs. The understanding between me and Dunham was that Percifull never had any claim to said springs. We considered that Percifull never lived at the springs until the year 1819. He lived there during or a part of the year 1819, and kept a boarding-house, but do not recollect of his cultivating at the time. During my acquaintance with Mr. Percifull he went and resided upon Red River two years. I remember nothing more of the conversations between Dunham & myself.

Were you acquainted with Silas Dod?

Yes.

Did you ever have any conversations with him relative to Mr. Percifull's claim to said springs?

I do not now recollect of any.

Cross-questioned on the part of Percifull:

Ques. At what time did Mr. Percifull remove to Red River?

I think in or about the year 1816.

Do you know anything about the character of Silas Dod among his neighbors for truth and veracity?

I do not know anything about his character in this respect. In some things I think his character good, and in other things good for nothing. He was a harmless, ignorant man. He might do good or not do good.

Question on the part of Belding:

How long have you been acquainted about the Hot Springs?

I think from June or July, 1812, or 1813, until about two years since. I have frequently been there. During the last twenty-four years I have, however, been very little about said springs.

At what distance have you lived from the Hot Springs since 1812?

Ans. About 35 miles.

And further deponent says not.

J. BARKMAN.

Sworn to and subscribed before me this 20th day of Jan'y, 1851.

B. F. HEMPSTEAD.

Also, at the same time and place, appeared Mr. CHARLES RAPLEY, who, by consent of parties, was examined in chief on the behalf of Henry M. Rector, and, being first duly sworn, deposes and says as follows, to wit:

In the summer of 1833 I was in bad health, and went to the Hot Springs for the benefit of the same. Mr. Physic was keeping public house at said springs at the time. Finding my health did not improve after being there some weeks, I was advised to go and stay at Mr. John Percifull's, on the Ou'chita River, at which place I spent some time. I think this was in August of the year 1833. Whilst there I had frequent conversations with him (Mr. Percifull) in relation to his manner of living when he first came to the country. He informed me, in speaking of his first coming to the country, that he came for the purpose of hunting; that he visited the Territory—I am not positive as to the date, but think he said about the year 1811, or pryor; that he was absent from the country for some time, and returned, (I am not certain whether he said in 1812 or 1813, but somewhere about that time.) I asked him what his occupation was during that period. He replied, it was hunting principally. He used frequently to narrate his buffalo-hunts, &c. I asked him how he lived, and he replied that he moved about from one place to another, living in a camp. He told me he settled the place where he then lived, on the Ou'chita River, in the year 1813 or 1814, but am not certain now which, and that he had lived there and cultivated from that time up to the period when I was there. Where he then resided was some six or eight miles from said Hot Springs. I have been frequently at the springs since the year 1833, but was never there before that time. But I have never seen anythink like cultivation there. The land about the springs is very sterile and rocky.

And further he says not.

CHAS. RAPLEY.

Sworn to and subscribed before me this 20th Jan'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

Whereupon this investigation was adjourned until to-morrow morning at 9 o'clock.

B. F. HEMPSTEAD, *Rec'r.*
WM. H. ETTER, *Reg'r.*

TUESDAY MORNING, *January 21st.*—Met pursuant to adjournment, and proceeded to the investigation of the pre-emption claim of John Percifull.

Examination-in-chief opened.

Depositions of Sarah Percifull offered in evidence; its reception objected to by Henry M. Rector, and the representatives of Ludovica Belding, dec'd.

No. 4.

The opinion of the receiver is that the depositions of David and Sarah Percifull shall be received simply as a notice of a pre-emption claim, and are rejected by him as evidence.

The register is of opinion that the said depositions should be received for what weight they are entitled to.

Protest of Henry M. Rector against any action of the land-officers on the pre-emption claims of Percifull and Belding, entered by consent of parties as of yesterday morning, the 20th inst., and which protest is here referred to as paper A, No. 1.

The depositions of Thomas Holman offered, and received by the register & receiver for what they are worth. Also the depositions of Warren Dunham offered, and likewise received by the land-officers for what they are worth.

208 Objections are offered to the reception of both Holman & Dunham's depositions, on the part of both Rector and Belding.

The depositions of Silas Dod, offered and objected to by Rector & Belding, but received by the land-officers for what they are worth.

The depositions of James Neel & Thos. Woodward offered, and objected to on the part of Rector & Belding on the grounds that they both are now living and reside in the State within seventy miles of this place.

Depositions of John C. Hale offered, and objected to by the other parties on the grounds that he now living, present, and acknowledges himself interested.

All copies of deeds, leases, & conveyances furnished by the General Land-Office to the register & receiver to be received and considered for what they are worth.

The depositions of Fullerston and Runyon offered, and objected to by Rector & Belding on the grounds that they are both still living near the Hot Springs in this State.

All the above-mentioned depositions, deeds, leases, &c., are received by the register & receiver for what they are worth.

The testimony on the part of the application of the legal representatives of John Percifull, dec'd, is here closed.

Whereupon Henry M. Rector introduced the following testimony in opposition to the claim of the legal representatives of John Percifull, dec'd:

JACOB BARKMAN, a witness on the part & for the party aforesaid, being duly sworn, deposes as follows, to wit:

Quest. At what time did you come to this country?

Ans. I came here in 1812, on the 7th day of January; I landed from the Wachita River.

What time were you at the Hot Springs?

I think it was in June of 1812.

How long did you remain there at that time?

I think about two or three days.

Were there any improvements there at that time; and, if so, of what character were they?

Ans. There were a few houses, not exceeding a half-dozen. There were also some camps and tents there.

What description of houses were these?

Ans. They were log cabins, small, and of little value.

Were there camps there at that time?

Ans. There were.

Who were they in possession of then—at that time?

Ans. They were in possession of various individuals who came there to attend the springs.

Were there any Indians about there, in the vicinity at that time, or some two or three years after?

Ans. There were some who came to attend the springs, but not many.

Of what tribe of Indians were these?

Ans. I do not recollect; they were as likely to be Choctaws as any, for the Choctaws were in this country at that time.

Do you recollect the names of any of those individuals who were there during the summer of 1812?

Ans. I recollect a person by the name of Fitz Gibbins, also two brothers of the same, and his mother.

Were they in poss'ion of those houses, or in camps, or how did they live?

Ans. They lived in what I should call a camp.

How long did those individuals remain there?

They were there a part of two years, during the summer seasons of 1812 & 1813, and I do not know but in the summer of 1814.

Did any of those visitors at the springs stay there a whole year?

Ans. There was a man by the name of Gray who did stay there the winter of 1814 or 1815.

Were the Fitz Gibbins residents of Louisiana or of Missouri Territory?

Ans. Gray came from Louisiana, but the Fitz Gibbins come from I know not where.

Did you when there go over across a little branch where the garden is now situated, &c.?

Ans. Yes; I have been all around them, & up on the mountain also.

Was there any cultivation there in 1812, when you were there?

Ans. The Fitz Gibbins had a little patch cultivated as a garden, I think, on the northeast side of the branch.

What was the extent of this cultivation?

Ans. It could not have exceeded an eighth of an acre, if it was that.

How was that inclosed?

Ans. I cannot recollect how it was inclosed.

Were you there again in the summer of 1813?

I was.

The character of the improvements were about the same as on the previous year, or were they different?

Ans. There was a little difference; a few additional cabins were erected.

You saw no other cultivation in the years of 1812 & 1813, excepting what you have mentioned.

Ans. I recollect of none.

Do you recollect of any additional names of persons in 1813 than those mentioned?

Ans. There was a Mrs. Foster, and, I think, one of the Loolaces, who came there during that year.

Did you ever know John Percifull, the person whose heirs & legal representatives are now claimants for said springs?

I did. I became acquainted with him in the year 1809.

Where did you see him at that time?

Ans. I first saw him in New Orleans.

When next did you see him, & where was it?

Ans. I saw him next on Black River, in Louisiana, in the fall—the latter part of the year 1809.

Where & when did you next see him?

Ans. I saw him next at what is called the Hot Spring Landing, on the Ou'chita River.

Did you state what year this was?

Ans. 'Twas in 1812; in the month of June, I think.

How came Mr. Percifull at that place at that time?

Ans. He had a farm there at the Ou'chita Landing, just below the mouth of the Gulpha, six or eight miles from the Hot Springs.

What was the character of that farm?

Ans. He had a house and five or six acres in cultivation and under fence.

That was in 1812; were you there again in 1813?

Ans. I was.

Was Mr. Percifull there then?

209 Ans. Yes; he resided there at that time.

Were you ever at Mr. Percifull's after 1813?

Ans. Yes; several times in 1814. I took the boat up there in May or the early part of June; this was the first time I went up in 1814. The next time I went up with Mr. Foster & his family. Mr. Percifull was living on his farm at the river both times.

How much time did you spend at the springs, in the aggregate, during that summer?

Ans. I think the last time I was there I spent eight or ten days; this, I think, was in September.

Do you recollect of seeing Mr. Abner Hignight at that time at Mr. Percifull's?

I think I saw him there, but did not become acquainted with him.

Did you see Mr. Percifull at the springs during the years of 1812, & 1813, & 1814?

I think I did see him there during those years, and that he went there for the purpose of furnishing venison & other things to the invalids there.

Did Mr. Percifull live & cultivate at the springs in 1812 or 1813?

Ans. I do not think I ever saw anything like cultivation by him there during those years or in 1814.

You say you were there in 1814.

Yes; I do not think he lived there in 1815, and not until 1819. I was several times at his farm on the [No. 5] Ou'chita River after 1815; I was at the springs and staid with Mr. Percifull, with my wife, in 1819, and boarded with him, I think, seven or eight days.

How do you understand that Percifull originated his claim to the Hot Springs?

Ans. He went there for the purpose of keeping a boarding-house, and said that it was a great place; and if he had money sufficient to make improvements, it would be a great place to make money. Likewise I asked him about the houses he was keeping in 1819; he told me they were left in his charge to take care of by a man by the name of Manuel Prudhomme, as near as I can recollect, who had left there for his residence below Nachitoch', where he then resided. After that (1819) I was very little about the springs; I think I was there in 1828 afterwards, but am not positive as to time.

What is the character of the country about the springs for cultivation?

Ans. It is of but little account, but little being fit for cultivation. Probably from an acre to two acres is all I conceive fit for cultivation in the immediate vicinity of the springs; this is just above the springs.

Did Percifull say anything about his claim to the springs at the time you were there in 1819 & conversed with him?

Ans. He did not, as far as I recollect. In 1813 & 1814 Mr. Foster had a small garden across the branch above the springs, on the north-east side of Hot Spring Creek, between said creek and the mountain. Percifull did not live or cultivate at the springs in 1812, 1813, or '14, and I do not think he did in 1815.

Cross-examined on the part of Mr. Belding's heirs:

Did Mr. Foster, the gentleman you spoke of having a garden there, seem to be a permanent settler there, or merely as a visitor?

Ans. Merely as a *a* visitor.

Did Foster remain there all the year, or only co ne there during the summers?

Ans. Only during the summer seasons; they spent the summers of 1813 & 1814 there.

You say he attended the springs for the benefit of his lad*ie*'s health?

Ans. Yes; in 1812, 1813, 1814, & 1815.

Were any persons permanently settled there?

Ans. There were none, as I recollect of; all those there, I understood, were there for the purpose of benefiting their health.

Did Fulsome have a house at the lower part of the valley?

Ans. He had a house there, but resided at the Ou'chita River, above the mouth of the Gulpha.

Did all those persons who were at the springs in 1814 support themselves, or board there?

Ans. They boarded themselves, I think, there.

Ques., (by Rector.) Did any of those persons there, in 1812, 1813, & 1814, set up any claim to said springs?

Ans. No one did that I know of.

Did Percifull live there the whole of the year round of 1819?

I did not know of any person living there the whole year round, pryor to 1819, excepting a Mr. Gray.

Did Percifull spend the whole year of 1819 at the springs?

Ans. I think not; it is my understanding that he went back to the river after the visitors left in the fall.

Who was the first person, within your knowledge, who first permanently lived at the springs?

Ans. I do not know who was the first person who lived at the springs during a whole year.

Were you there during the years 1828, 1829, & 1830?

I do not recollect when I was there, but think it was in or about 1828. did not see Mr. Belding there when I was there.

Can you state how far above the upper spring this piece of tillable land cultivated by Foster, as mentioned, is?

I suppose from fifty to sixty yards above the Hot Springs.

Cross-examined by the representatives of Percifull:

Ques. In 1812, when you spoke of being at Percifull's place, at the mouth of the Galpha, was he a married man?

Ans. He had no wife and children there that I know of.

How often were you at the Hot Springs in 1811?

I was not there at all.

How often were you at the Hot Springs in 1812?

I do not recollect that I was there more than once in 1812.

How often were you there in 1813?

Ans. I was there probably two or three times, but do not recollect precisely how many times.

Did Percifull remain in the vicinity of the Hot Springs from 1812 to '15, or remove from the place?

Ans. He remained in the vicinity of the springs and did not remove.

Did the persons at the springs in 1812, '13, & '14 board themselves?

Ans. They pretty generally carried their own provisions there, or obtained them by hunting; some had hunters, & Mr. Percifull hunted for some.

Who was in possession of the springs the first time you visited them after 1819?

Ans. I do not recollect.

210 And further deponent says not.

J. BARKMAN.

Sworn to and subscribed before me this 21st day of January, A. D. 1851.

B. F. HEMPSTEAD, *Rec'r.*

At the same time and place appeared Mr. ABNER HIGNIGHT, who, being first duly sworn, deposes as follows, to wit:

Ques. When did you first come to the Territory of Arkansas?

Ans. I think it was in 1810, but might be in 1811; I am not certain which it was.

What part of the country did you first stop at?

Ans. At Stephenson's Salt-Works, on the Ou'chita River.

Do you know whether it was in 1810 or '11?

Ans. I am inclined to think it was in 1811.

How long did you remain at the salt-works?

Ans. I had been knocking about there for some time, say two or three months.

To what part of the country did you go when you left the salt-works?

Ans. I went up to Mr. Percifull's, on the Ou'chita River.

Do you recollect at what time of the year it was when you arrived at Percifull's?

I do not recollect at what time it was.

How long did you live with Mr. Percifull on the Ou'chita River?

Ans. I staid there one or two years, making that my home.

How far is that place at which you staid from the Hot Springs?

Ans. About 7 miles.

Do you know whether this John Percifull is the same man whose heirs are now claiming the Hot Springs?

He is the same man, as I understand.

D' 'ou say that there was the residence of Mr. Percifull?

Ans. Yes.

Are you able to state in what year it was that you left Mr. Percifull's house?

Ans. I think it was in the latter part of the year 1813.

Were you at his house the next year, or the year following?

Ans. I think the next time I was there was in 1815.

Was Mr. Percifull living there at the original place then?

Ans. He was, and was married, I think.

What sort of a place was that as regards cultivation & improvements?

Ans. When I first went there he had five or six acres cleared and under fence. There was a small house or cabin.

Was that farm increased or enlarged while you were there?

Ans. Percifull hired me to clear him five acres adjoining the other cleared land; he also hired me to make him 2,000 rails. I hired a man by the name of Morrow to clear about three acres for Percifull, all adjoining the other cleared land. I was instructed so to do by Percifull. I did this work in 1812. I done some of the work in 1811 and finished it in 1812.

Was the ground in cultivation when you were there?

Ans. It was cultivated with corn and potatoes.

Did you assist Mr. Percifull in the cultivation of that ground?

Ans. Very little.

Who did cultivate it?

Ans. Mr. Percifull. He would sometimes hire work from others and pay in buffalo meat for the same.

After you left in 1813, when did you return?

Ans. In 1815.

Is that the same place on the Ou'chita where Mr. Percifull continued to live until he died?

Ans. It was the same place.

Do you recollect the year in which Mr. Percifull died?

Ans. No; I have no knowledge.

Were you at the Hot Springs in 1811, 1812, & 1813, while you lived with Percifull?

Ans. I was, frequently.

What was the extent of the improvements at the Hot Springs when you first visited them, at the time you were living at Percifull's?

Ans. There were a few half-faced camps in 1813. Manuel Prudhomme and his brother built a chunk of a house there; this was in the summer of 1812 or 1813. I won't be positive which.

What sort of camps were those you speak of?

They were what are called half-faced camps.

Whereabouts in the valley did these Mr. Prudhommes build the house you speak of?

On the west side of the creek and opposite the main spring in the valley.

Did you see any cultivation at the springs when you lived with Percifull?

Ans. There was a little piece of ground, I think about a fourth of an acre, situated a northeast course, 60 or 80 yards from the main spring, directly under the mountain. He (Morow) had som' lettice, wattermellons, &c., cultivating there. This is all I can recollect of.

How was that gardin enclosed?

Can you state how far above the upper spring this piece of tillable land cultivated by Foster, as mentioned, is?

I suppose from fifty to sixty yards above the Hot Springs.

Cross-examined by the representatives of Percifull:

Ques. In 1812, when you spoke of being at Percifull's place, at the mouth of the Galpha, was he a married man?

Ans. He had no wife and children there that I know of.

How often were you at the Hot Springs in 1811?

I was not there at all.

How often were you at the Hot Springs in 1812?

I do not recollect that I was there more than once in 1812.

How often were you there in 1813?

Ans. I was there probably two or three times, but do not recollect precisely how many times.

Did Percifull remain in the vicinity of the Hot Springs from 1812 to '15, or remove from the place?

Ans. He remained in the vicinity of the springs and did not remove.

Did the persons at the springs in 1812, '13, & '14 board themselves?

Ans. They pretty generally carried their own provisions there, or obtained them by hunting; some had hunters, & Mr. Percifull hunted for some.

Who was in possession of the springs the first time you visited them after 1819?

Ans. I do not recollect.

210 And further deponent says not.

J. BARKMAN.

Sworn to and subscribed before me this 21st day of January, A. D. 1851.

B. F. HEMPSTEAD, *Rec'r.*

At the same time and place appeared Mr. ABNER HIGNIGHT, who, being first duly sworn, deposes as follows, to wit:

Ques. When did you first come to the Territory of Arkansas?

Ans. I think it was in 1810, but might be in 1811; I am not certain which it was.

What part of the country did you first stop at?

Ans. At Stephenson's Salt-Works, on the Ou'chita River.

Do you know whether it was in 1810 or '11?

Ans. I am inclined to think it was in 1811.

How long did you remain at the salt-works?

Ans. I had been knocking about there for some time, say two or three months.

To what part of the country did you go when you left the salt-works?

Ans. I went up to Mr. Percifull's, on the Ou'chita River.

Do you recollect at what time of the year it was when you arrived at Percifull's?

I do not recollect at what time it was.

How long did you live with Mr. Percifull on the Ou'chita River?

Ans. I staid there one or two years, making that my home.

How far is that place at which you staid from the Hot Springs?

Ans. About 7 miles.

Do you know whether this John Percifull is the same man whose heirs are now claiming the Hot Springs?

He is the same man, as I understand.

D' 'ou say that there was the residence of Mr. Percifull?

Ans. Yes.

Are you able to state in what year it was that you left Mr. Percifull's house?

Ans. I think it was in the latter part of the year 1813.

Were you at his house the next year, or the year following?

Ans. I think the next time I was there was in 1815.

Was Mr. Percifull living there at the original place then?

Ans. He was, and was married, I think.

What sort of a place was that as regards cultivation & improvements?

Ans. When I first went there he had five or six acres cleared and under fence. There was a small house or cabin.

Was that farm increased or enlarged while you were there?

Ans. Percifull hired me to clear him five acres adjoining the other cleared land; he also hired me to make him 2,000 rails. I hired a man by the name of Morrow to clear about three acres for Percifull, all adjoining the other cleared land. I was instructed so to do by Percifull. I did this work in 1812. I done some of the work in 1811 and finished it in 1812.

Was the ground in cultivation when you were there?

Ans. It was cultivated with corn and potatoes.

Did you assist Mr. Percifull in the cultivation of that ground?

Ans. Very little.

Who did cultivate it?

Ans. Mr. Percifull. He would sometimes hire work from others and pay in buffalo meat for the same.

After you left in 1813, when did you return?

Ans. In 1815.

Is that the same place on the Ou'chita where Mr. Percifull continued to live until he died?

Ans. It was the same place.

Do you recollect the year in which Mr. Percifull died?

Ans. No; I have no knowledge.

Were you at the Hot Springs in 1811, 1812, & 1813, while you lived with Percifull?

Ans. I was, frequently.

What was the extent of the improvements at the Hot Springs when you first visited them, at the time you were living at Percifull's?

Ans. There were a few half-faced camps in 1813. Manuel Prudhomme and his brother built a chunk of a house there; this was in the summer of 1812 or 1813. I won't be positive which.

What sort of camps were those you speak of?

They were what are called half-faced camps.

Whereabouts in the valley did these Mr. Prudhommes build the house you speak of?

On the west side of the creek and opposite the main spring in the valley.

Did you see any cultivation at the springs when you lived with Percifull?

Ans. There was a little piece of ground, I think about a fourth of an acre, situated a northeast course, 60 or 80 yards from the main spring, directly under the mountain. He (Morow) had som' lettice, watermellons, &c., cultivating there. This is all I can recollect of.

How was that gardin enclosed?

There were two strings of brush-fence, and one side was fenced by the mountain, forming a sort of three-sided piece of ground.

Was there any other cultivation that you saw there during the years of 1812 & '13, excepting this piece spoken of?

Ans. There was none.

Did Mr. Percifull cultivate any ground at the springs himself, at this time?

Ans. Never, while I staid with him.

Did he live at the springs himself at any time while you staid with him?

Ans. He never did live there while I staid with him.

What were the relations that existed between you and Mr. Percifull at that time, and so on up to his death?

Ans. We were like brothers all the time.

Did Mr. Percifull leave that part of the country at any time and remove to Red River?

Yes; I met him moving, and he informed me that he was going to Long Prairie, on Red River.

Do you recollect in what year he went, and in what year he returned from Red River?

Ans. I think he went in 1816; he remained, I think, *in* something like two years, and returned.

Did you see him on his return, and where did you see him?

211 He stopped with me on his return for two or three days. I then lived on Stroud's Creek, in Clark County, in this State.

How was it, according to your understanding, that Mr. Percifull set up a claim to the Hot Springs?

He told me that he wanted to improve them and let them get a name out, that they might be valuable.

How did he found his claim thereto?

The people looked up to him as the proprietor, because he furnished there provisions, breadstuff, & meat for those who did not want to kill it. Percifull, Cates, & Fullsome all helped to furnish provisions, &c.

When did Mr. Percifull first live & cultivate at the Hot Springs?

Ans. Never that I know of. I was there in the summer after Mr. Percifull returned from Red River, in March, and have not been there since. I did not see Mr. Percifull at the time I was at the Hot Springs last, and have never seen him or his wife since he stopped at my house in Clark County on his return from Red River.

Cross*ed*-examined on the part of Belding's heirs:

Ques. Did Mr. Percifull take his family and property, beds, &c., with him when he moved to Red River?

Ans. He had both his family and goods; and I observed two mill-stones on an ax*al*-tree with a horse harnessed to them.

When you returned to Mr. Percifull's, on the Ouachita River, in 1815, did his farm appear as if it had been cultivated during the previous year?

Ans. It did.

Cross-examined by the legal representatives of John Percifull, dec'd:

Ques. Did Mr. Percifull, in those conversations which you spoke of having had with him in the years 1811, '12, & '13, in relation to his claim to the Hot Springs, say that the camps or cabins were his, and that the visitors came by his consent? Tell us all that he said in these conversations as near as you can recollect.

Ans. In consequence of his doing so much for those invalids who came

there, Mr. Percifull deemed that he had a claim to the Hot Springs; for he used to furnish those who had no money with provisions as well as those that had money. And when visitors left there, they used to give up to him their camps, &c., considering him the proprietor of the springs.

Did he not also say in said conversations his object in clearing lands upon which you say he lived was to furnish corn & other provisions to the visitors at the springs?

Ans. Yes; he said it was for this purpose, that he might furnish supplies for the visitors at the springs.

At what season of the year did visitors usually attend the springs?

Ans. In the spring & summer until the weather became too hot.

Was John Percifull married or single in the years 1811, 1812, & 1813?

Ans. If he was married I did not know it; he had no wife with him.

Is Long Pr'ria' on Red River, into which he (Percifull) said he was removing, in Arkansas?

Answer. I do not know whether it is or not.

And further he says not.

ABNER HIGNIGHT.

Sworn to and subscribed before me this 21st Ja'y, 1851.

B. F. HEMPSTEAUD, *Rec'r.*

The investigation is here closed until to-morrow, a. m., at 9 o'clock. January 21st, at 9 o'clock a. m.

B. F. HEMPSTEAD, *Rec'r.*
WM. H. ETTER, *Register.*

Wednesday morning, Jan'y 22d, 1851. Met at 9 o'clock and proceeded in the investigation.

And at the same time and *time and* place appeared BERNARD BONNE, who, being first duly sworn, deposes as follows, to wit:

Ques. Do you recollect at what time you came to this country?

Ans. In 1804.

How old a man are you?

Ans. 57.

Did you ever know a man by the name of Mitchell Bonne?

Ans. Yes; he was my father.

Is he the man who made the trace from about Pine Bluff to the Hot Springs called "Bonne's trace?"

Ans. Yes.

What part of the country did you stop at when you first came to this country?

Ans. Two miles above Pine Bluff.

Did you ever live at the post?

Yes; I have been raised at the post.

Were you ever at this place before?

Yes; I was here twenty-seven years ago.

Were you ever at the Hot Springs?

Yes.

When were you first there?

Ans. In October, 1813.

Were there any people at the springs then?

Ans. None.

Any Indians?

Ans. None.

Who did you go to the springs with?

Ans. With my two brothers, Joseph & Mitchell, and my father.
Where did you come from there?
From two miles above Pine Bluff.
What did you go there for?
Ans. To hunt bear, beaver, & buffalo.
Did you see any houses there?
Ans. I saw no houses, but where some three houses had been burned, and I saw some camps there made of poles.
Did you see any field under cultivation there?
Ans. I saw none, and had to cut away the briers and bushes with my knife in order to get to the springs.
Did you see Mr. Perciful at the time you were there?
Yes; I saw him on the Ou'chita River.
How far from the springs?
Ans. Seven or eight miles.
Where did he live then?
Ans. On the bank of the Ou'chita, where I saw him.
Did Mr. Percifull have a house there?
Ans. Yes, he had a log house there.
Did you trade any with Mr. Percifull at the time you saw him?
212 Yes; I bought sugar & coffee, and paid him two beaver-skins in exchange.
When was the next time you were at the said springs?
Ans. On the 15th of May, 1814.
Were you at the springs then?
Yes.
Who went with you at this time?
Ans. Charles Refeld, his wife, and two children; one a girl aged seventeen or eighteen.
What did you go there for then?
Ans. To take Mr. Refeld's sick daughter to the springs for her health.
How did you go there?
Ans. On pack-horses.
How long did you remain there?
Ans. I went from there with my father and two brothers & two Quapaw Indians to the Little Missouri River to hunt; and returned to the springs in the last of June, being absent from them about one month.
Were there people there at that time?
Ans. Yes, there were some 40 or 50 from Nachitosh' there, and some of them built houses.
Did you see Mr. Percifull there at that time?
Ans. I did not; but saw Mr. Fulsome there.
Where did Mr. Percifull live at that time?
Ans. On the Ou'chita Rive', where he lived before.
What kind of a place did Mr. Fulsome have at the springs at this time?
Ans. He had a kind of cabin built of poles about the size of my arm, and a pen where he kept three cows to furnish milk for the visitors.
Where did Fulsome live at this time?
Ans. He lived on the Ou'chita River, above the mouth of the Gulpha, about three-quarters of a mile from Percifull's.
Were you at his house?
Yes.
Did he have a farm there?
Yes, he had corn growing there.
When was the next time you came there afterwards?

Ans. I cannot recollect, I was there so many times; neither can I say in what years I was there.

Cross-examined by Belding's representatives:

Ques. Were the persons whom you saw at the Hot Springs in 1814 there merely as visitors, or permanently settled there?

Ans. They were there for their health—merely visitors.

Of what nation are you?

Ans. My father was a Frenchman, from France. I am part Quapaw—only a very small portion Quapaw.

Cross-examined on the part of Percifull's legal representatives:

Ques. You say you cannot recollect the different years you were at the Hot Springs after you were there in 1814; can you tell how many times you were there after the year 1814?

Ans. One time in 1833; I was there six times in all; three of the times I cannot recollect the years in which I was there, as I passed them with some Indians.

When you were at the Hot Springs in 1814, did you get acquainted with Sarah Ubanks, who afterwards was John Percifull's wife?

Ans. I did not.

How long did you remain at the springs when you were there in October, 1813.

Ans. I did not stop there at all. I only went to see the springs, and returned immediately.

How long did you remain at the Hot Springs when you were there in June, 1814?

Ans. I staid two or three days there when I went there with Refeld & family, and went to the Little Missouri to hunt, where I remained about a month, and returned again to the springs, where I staid two or three days and returned again to Pine Bluff, where I then lived. It is about 80 miles from where I lived to the springs.

And further he saith not.

his
BERNARD + BONNE.
mark.

Sworn to and subscribed before me this 22nd Jan'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

At the same time and place appeared RICHARD C. HAWKINS, who, being duly sworn, deposes as follows, to wit:

Question. Did you know John Percifull, the man whose heirs are now claiming the Hot Springs, and where?

I became acquainted with John Percifull about the first of the summer of 1829.

Where did he live then?

His residence was on the Ou'chita River, about 8 miles from the springs.

Did you ever have any conversation with Mr. Percifull about his claim to the Hot Springs?

Ans. Often.

Did you ever have any conversation with Mr. Percifull relative to his first settlement in the Territory of Arkansas?

I have.

What was that conversation?

Ans. Mr. Percifull told me that he and Isaac Cates came to the Hot Springs in the year 1807, and they remained at the springs during that

year, camped there and hunted; and in the spring of 1808 he went to the Ou'chita River and settled there; and that he made the first bread that he ever had in the country with a wooden hoe, without any other implement to work with. He made this bread on the Ou'chita, the place where he was then living.

And further this deponent sayeth not.

RICHARD C. HAWKINS.

Sworn to and subscribed before me this 22nd Jan'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

Henry M. Rector here offered the two previous rejections of the Percifull pere-emption claim in evidence as contained in a duly certified copy from the General Land-Office; to the reception of which the legal representatives of Percifull objected. These objections are overruled, and the register and receiver receive the rejections for what they are worth.

213 Here closes the testimony on the part of Mr. Henry M. Rector.

Whereupon, neither of the parties in interest introducing no further evidence, either for or against the claim, the same was submitted for the decision of the register and receiver.

WM. H. ETTER, *Register.*
B. F. HEMPSTEAD, *Rec'r.*

REGISTER'S OFFICE, WASHINGTON, ARKANSAS,
March 5th, 1851.

Upon a careful investigation of all the testimony produced by the heirs and legal representatives of John Percifull, deceased, in support of a pre-emption claim to the southwest quarter of section thirty-three (33) in township two (2) south, of range nineteen (19) west of the 5th prin-c'pal meridian, and known as the tract of land upon which the Hot Springs in the State of Arkansas are situate, as well as the testimony produced adverse to said claim, I am clearly of the opinion that the said heirs and legal representatives of John Percifull, deceased, having failed to establish actual inhabitancy and cultivation, as required by the act of 12th of April, 1814, under which they claim, are not entitled to the benefit of pre-emption. The application to locate is therefore rejected.

WM. H. ETTER, *Register.*

RECEIVER'S OFFICE, WASHINGTON, ARKANSAS,
Feb'y 10th, 1851.

Upon an examination of all the testimony of the legal heirs of John Percifull, deceased, for a pre-emption on the southwest quarter of section No. 33, in township No. 2 south, of range No. 19 west, known as the Hot Spring tract, I find:

1st. That John Percifull did actually inhabit and cultivate the tract of land above described on and prior to the 12th day of April, 1814.

2nd. That his legal heirs or representatives are entitled to enter the same under the provisions of said pre-emption laws of 12th April, 1814, at the minimum price of $1.25 per acre.

B. F. HEMPSTEAD,
Rec'r, &c.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that John C. Hale, as the leagal representative of

John and Sarah Percifull, dece'*s't*, in *w*right of himself and David Percifull, the *s*un of the late dece'*s't*, above stated, this day personally appeared before me, the undersigned, an acting justice of the peace within and for the county aforesaid, and on his oath deposes and says that he is about fifty years of age; the head of a fam'ly, consisting of himself, wife, and six children; that for near ten years he has been an actual settler and cultivat*e*r on the southwest qu'rter of section thirty-three, in township two south, of range nineteen west; that he and one Melus H. Woods purch*e*sed all the improvements & possession on the 16th of November, 1840, together with all the right, titl*e*, & int'rest that they had in and to one-half of the said John & Sarah Percifull's *w*right of pr'*i*mption, of the 12th of April, 1814; and f*o*urther deposes and says that he was *and* actual settler on the above-mentioned southwest qu'rter of section thirty-three on the first day of March, 1843, by personal residence, and now in possession of a large part of the improvements; and claims the *w*right of becoming the purch*e*ser under the provisions of 3 sec. of an act of Congress entitled "An act to perfect the title to lands south of the Ark'n's River, held under the New Madrid locations and pre'mption*s* act of the 12th of April, 1814, and now in possession of said southwest qu'rter before described, by personal residence of himself & fam'ly; and has cultivated on said qu'rter section, known to him as being the southwest qu'rter of section thirty-three, in T. 2 S., R. 19 W. of the 5th p. m., had not a New Madrid location prevented such subdivision. Fou'thermore he says not.

JOHN C. HALE.

Sworn to and subscribed before me this 10th day of June, A. D. 1850.

LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

This day personally appeared before me, Charles Burke, an acting justice of the peace in and for the county aforesaid, Lawson Runyon & John W. Fullerton, to me personally well known as competent witnesses in law, entitle' to full credit as such, and, being duly sworn for the purpose, state on oath that they are personally well acquainted with the *s*ircumstances and things set f*o*urth in the foregoing depositions of John C. Hale; that they are true in substance and in fact.

LAWSON RUNYON.
J. W. FULLERTON.

Sworn and subscribed to before me this 20th day of June, 1850.

CHARLES BURKE, *J. P.*

STATE OF ARKANSAS,
County of Hot Springs:

Be it remembered that James Neel, a citi*s*on of said county and State, with whom*e* I am personally well acqu'nted, in *w*right of the le*a*gal repros*a*ntatives of John Percifull and Sarah Percifull, dece'*s't*, this day personally appeared before me the undersigned, an acting justice of the peace within and for Hot Spring To*u*nship, and county & State aforesaid, and on his oath deposes and says, that he is about s*e*xty-one years of age, or ther'abouts; that he has resided in the visin*e*ty of Hot Springs, in said State of Arkansas, ever s*e*nce the year A. D. 1812. In said year he was frequently in the compeny of one Thomas Holman, a young man whoe lived with John Percifull, above state', at the Hot Springs afore-

said. In the summer of 1812 he went to the Hot Springs aforesaid and found the said Thomas Holman still living with the s'd John Percifull at said springs; that he then became well acqu'nted with said Percifull, then in possession of said springs, claiming them by settlement-right. He had at that time a house within fifty yards of one of the main hot springs; and he does beleive that the ground where the said Percifull's house then stood is now covered by John C. Hale's hottell. He allso had at that date, to wit, A. D. 1812, he, (the said Percifull,) had garden or truck-patch, as he so cawled it, a'mediately east of Hot Spring Creek, clost up to Hot Spring Mount'in, in which there was a
214 cultivation of vegitables, and was cawled the said Percifull's truck-pa'ch, thoe I did not see Percifull or any other person cultivating the same; tho' that and all other improvements ware cawled Percifull's, and I he'red of no other claim. He fourther deposes and says, that in the spring & sum'er of the year A. D. 1814 John Percifull and Sarah Ubanks lived at said Hot Springs, and kept a house for the a'com'edation of such as did not come prepaired to board themselves; that he was then there in said year, found them in posses'ion of the same house that Percifull oc-'ipi'd in 1812, and the same garden was still cultivated and cawled Porcifall's; & some short time afterwards it was sayed that Percifull had married this said Sarah Ubanks, which I believe to be a fact, for I never he'red it contredected by those best acqu'nted with them. He says they lived together as man and wife up to his, Percifull's, death, which *take* plase, he thinks, in 1836. He fourther deposes and says, that ne'ther the said John Percifull nor Sarah, his wife, niver did remove from said Terretory sence his first acqua'ntance with them. He says the said Percifull & his wife Sarah has but one heair living, which is David Percifull, of this county. He forther deposes and says, that the houses & garden aforesaid *is* now embrased by survay in the southwest qu'rter of section thirty-three, in township two south, of range nineteen (19) west of the 5 p. m. in the destrict of land subject to sale at Washin'ton, Arkansas. He fourther deposes and says, that the said John *John* Percifull & Sarah, the widow of the said John Percifull, did hold possession, by themselves & tenants, up to the time of their deaths, and John C. Hale, under a contract made and entered into on the 16th of November, A. D. 1840, with Sarah and David Percifull, the widow and son of the said John Percifull, desest; and that said Hale has been in posses'ion under said contract, to his knowle'ge, ever sence the year of 1841. And the said John C. Hale and fam'ly to my knowle'ge has cultivated on said southwest qu'rter of section thirty-three, in township two south, of range nin'teen west of the 5th p. m., each and every year sence the year of *year* A. D. 1841; also cultivated in that year. And he fourther deposes and says, that the said John C. Hale did reside and was a settler, by personal residence of himself and his fam'ly, on the first day of March, eighteen hundred & forty-three, on said southwest qu'rter-section of sec. 33, as above described, and now in possession of the same by himself & family. And he fourther deposes says, that his acqu'ntance with the pe'sons whoes names *is* set fourth in the for'going depositions compell' him to say that *that* they are of undoubted c'arrecters, & full credet should be given to each & all of their testamoney. He fourther deposes and says, in the sum'er or spring of 1814, at the same time above that he *seed* Thomas Holman at the spring, he *seed* one Warren Dunham, or a short time after. Fourthermore he says not.

JAMES NEEL.

Sworn and subscribe' to before me this 10th day of June, A. D. 1850.

LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS,
County of Hot Springs:

Be it remembered that Thomas S. Woodard, late of Alabama, now residing in Arkansas, states that he came to the Hot Springs of Arkansas in the year 1816, some time in the month of May, & remained until some time in June of the same year; that what time he remained at the springs he boarded with one John Piercifull and his wife, Sarah, who then kept a boarding-house at said springs.

That they had at the time several enclosures, among the rest a garden, which was cultivated in vegitables; that he knew of no other person set'ing up any claim to the Hot Springs at that time.

At that time there was a man living with said Piercifull by the name of Thomas Holeman, who had been living with him for several years, as he informed him; that Piercifull also informed him that he came to the springs in the year 1807, and he then claimed them as being the only settler under the existing laws; that, from an examination of a certified plat of survey from the office of the surveyor-general, he finds that the settlement and improvements and cultivation of the said John Piercifull at the Hot Springs aforesaid was situate on the southwest fourth of the section numbered thirty-three, in township numbered two south, of range numbered nineteen west of the fifth principal meridian, in the district of lands subject to sale at the land-office at Washington, Arkansas; and he further states that, to the best of his recollection, there was no other house or houses on the premises but what were owned & claimed by said Piercifull.

He further states, that in the year 1841 he vesited the aforesaid Hot Springs and found John C. Hale in possession of said springs, and Mrs. Sarah Piercifull was also residing at said spring a part of the time, and she informed him she had sold one-half of her right & claim to said springs to said John C. Hale & Milus H. Woods; and that he has several times visited said springs since that time, and found said John C. Hale still in possession of the same, and that he still finds said Hale in possession of said springs and residing near the same spot where he found said Piercifull residing in the year 1816. And furthermore he sayeth not.

THOS. S. WOODWARD.

Sworn to and subscribed before me this 10th day of June, A. D. 1850.
LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyon, an acting justice of the peace in and for the county aforesaid, do hereby certify that I am personally well acquainted with the witnesses whose names appear upon and are subscribed to the annexed and foregoing depositions, and that their testimony is entitled to full credit. And I further certify that James L. Knapp, whose name appears upon and is subscribed to the accompanying notices, is the acting constable of Hot Spring Township, in said county.

June 10th, 1850.

LAWSON RUNYON, *J. P.*

HOT SPRINGS, ARKS., *June 6th*, 1850.

Col'n' HENRY M. RECTOR:

You are hereby notified that I will pros'ede to take the deposisions of

Gen'r' Thomas Woodard on the 10th inst., before Lawson Runyon, J. P.,'in and for Hot Spring Township, for the purpose of establish-
215 ing John & Sarah Percifull's *w*right of pr'-emption to the qu'rter-section of land embracing the Hot Springs, in said county & State of Arkansas, wh*a*re you can attend if you wish.

Yours, respectfully,

J. C. HALE.

Ex*a*cuted the within noti*s* by delivering to Henry M. Rector a true copp*y* of the within noti*s*, on Thursday, the 6th day of June, 1850.

JAMES L. KNAPP, *Con.*

Fees, 25 cents. No. 1.

HOT SPRINGS, ARKS., *June 6th*, '50.

Mrs. LYDIA BELDING:

DEAR MADAM: After my best respects, you are hereby informed that the deposition of Genrl. Thomas Woodard will be taken in Hot Spring Valley on the 10th inst., before Lawson Runyon, J. P., in and for said county & State of Arkansas, for the purpose of establishing John & Sarah Percifull's *w*right of pre-'mption to that qu'rter-section of land *i*mbracing the Hot Springs, in said county & State of Arkansas, wh*a*re you can attend if you wish so to do.

Yours, respectfully,

J. C. HALE.

Ex*a*cuted the within noti*s* by re'ding to Lydia Belding, in h*i*r presence, and leaving a true copp*y* of the within noti*s* with h*i*r, this 6th day of June, 1850.

JAMES L. KNAPP, *Con.*

Fees and mil*deg'*, $1.00.

(Indorsed:) Affidavit of Jno. C. Hale & others. G. L. O. Received 23d July, 1850, in a sealed envelope, from the hands of John C. Hale, to whom, from the endorsement on said envelope, the package was delivered for that purpose, the same being sealed with three wafers and the name of Lawson Runyon, J. P., written across each wafer. C. S. J. No. 103. Certified copy sent to clk. ct. Aug't 7, 1855. Sealed & signed by the undersigned before delivery to the party.

LAWSON RUNYON, *J. P.*

Mrs. L. BELDING:

MADAM: You are hereby notified that I shall proceed to take the deposetion of witnesses in favour of a pre-emption right to the Hot Springs of Arkansas, under the existing laws in favour of the heirs & legal representatives of John Piercifull & Sarah Piercifull, on the 22nd day of June instant, at the tavern-house of John C. Hale's, at said Hot Springs, where you are also respectfully requested to be present, if convenient, and you think proper on your part.

JOHN C. HALE.

JUNE 20TH, 1850.

The within and foregoing notice was duly executed by delivering a copy to Mrs. L. Bilding, at her residence in Hot Spring County, on the 20th day of June, 1850, & I so certify.

J. L. KNAPP,
Constable of Hot Spring Township.

(Indorsed:) John C. Hale. Notice. L. Belding. Fees, $1.25.

STATE OF ARKANSAS,
Hot Spring County:

Be it remembered that on this the 22nd day of June, 1850, personally appeared before me, Lawson Runyon, an acting and duly commissioned justice of the peace in & for Hot Spring Township, in the county of Hot Spring & State of Arkansas aforesaid, William Davis, a witness, to me personally well known, who, in right of the lagal representatives of John Percifield, after being first duly sworn, deposes as follows, to wit:

That he is about fifty years age; that he removed to the Hot Spring County, then Terry. & now State of Arkansas, some time in the year 1819, and stopped in the place then & now known as the Hot Spring, in said year; and at that time John Percefield was then residing at said Hot Spring, and said Percifield claimed said spring when he, said defendant, first arrived at said spring, and continued to claim & occupy said Hot Springs, by himself & tennants, up to the time of his death, which took place some time during the years of 1835 or 1836, to best of his belief. And deponent further stat's that he frequently heard Ludovicus Belding, during the years 1829 & 1830, that he, said Belding, had leased said Hot Spring from said John Percefield, during which time he, sai' Belding, was occupying said Hot Spring; and deponent further stat's that said Belding, during the time he occupied said Hot Spring, never set up any claim whatever except as lessee under said Percefield during his, said Belding' life-time, that is, up to his death; and deponan' further stat's that said Belding never cultivat' any po'tion of said Hot Spring except what he, said Belding, rented or leased of said John Percifield, and which had been previous' cleared and cultivated by said Percifield, and situated on the said Percifield claim. And sai' deponent further stat's that the said Belding cultivated a farm some six miles southeast of said Hot Spring during the years 1829 & 1830, and died on said farm.

And said deponent further states that he has resided at and about the said Hot Spring from the year 1819 up to the present date.

his
WILLIAM + DAVIS.
marke.

Sworn to & subscribed before me, an acting justice of the peace in & for Hot Spring County and State of Arkansas, this 22nd day of June, A. D. 1850.

LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS,
Hot Spring County:

Be it remembered that on this the said 22d day of June, 1850, also personally appeared before me, the undersigned, justice of the peace in & for said county & State aforesaid, James Neel, and after first being *first* duly sworn, stat's under oath that the matters & facts above depose' to by William Davis are true in substance & in fact to his own personal knowledge.

JAMES NEEL.

STATE OF ARKANSAS,
Hot Spring County:

Sworn to subscribed before , an acting justice of the peace in & for the county aforesaid, this 22nd day of June, 1850.

LAWSON RUNYON, *J. P.*

216 STATE OF ARKANSAS,
Hot Spring County:

Be it remembered that Samuel Sortor personally appeared before me, the undersigned, acting & duly commissioned justice of the peace, in & for the county of Hot Springs & State aforesaid, on this 22nd day of June, A. D. 1850, and after being first duly sworn as a witness on the behalf of the legal representatives John Percifield and Mary Percifield, deceased, deposes & as follow*ers*, to wit:

That he, said deponent, heard Ludovicus Belding in his life-time stated that he, said Belding, had rented or leased the Hot Spring of John Percifield, and that said Belding made said statement in the year 1829, and that he, said Belding, was then occupying the Hot Spring under sai' Percifield as lessee. That the ground cultivated by said Belding during the year 1829 is the place lying on the east side of the Hot Springs Creek, & d*i*scribed in the depositions of James Neel & known as the garden and enclosures of said John Percifield; which deposition shows fully the cultivation by said Percifield many years previous to the year 1829. And deponent further states that he was living here at the said Hot Springs during the year 1830, and that he do*se* not know or believe that said Belding did occupy any houses by personal residence except those emp*r*aced in the lease from said Percifield; that said Belding, one Moore, & himself, in the year 1829, did purchase a house at said Hot Springs on the southwest quarter of section thirty-three, (33,) township two (2) south, range nineteen (19) west, and that said Belding became the purchaser of said house of the Moore and of said deponent; and as deponent understood said Belding, he, said Belding, purchase' the same for said Percifield, and that said Belding with his family never did occupy said house as a private residence; nor did he, Belding, ever occupy the house said to have been Mrs. Bassett's by personal residence with his family; that all the cultivation done by said Belding at said Hot Springs was in the year 1829, so far as deponent has any knowledg' of.

SAML. SORTOR.

Sworn to & subscribed before me, an acting justice of the peace in & for Hot Springs County, this the 22nd day of June, A. D. 1850.

LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS,
County of Hot Springs:

I, Lawson Runyon, a justice of the peace in and for the county of Hot Springs, do hereby certify that Samuel Sortor & William Davis, whose names are subscribed to the annexed and for'going depositions, are the same persons whose testimony was taken in favour of a pre-emption claim under the act' of 1829 & '30, by Mrs. Lydia Belding, in right of her husband, Ludovicus Belding, deceased, taken on the 7th day of March, 1839; that I am personally well acquainted with James Neel, Samuel Sortor, & William Davis, whose names appear upon and are subscribed to the annexed and for'going depositions; that their testimony is entitled to full credit; that their depositions were reduced to writing in my presence on the day and at the place named in the notice, between the hours of ten o'clock a. m. & three o'clock p. m. of said day.

Given under my hand this 22nd day of June, 1850.

LAWSON RUNYON, *J. P.*

(Indorsed:) G. L. O. Received on the 23d July, 1850, in a sealed envelope, from the hands of John C. Hale, to whom, from the endorsement on said envelope, the package was delivered, the same being sealed with three wafers, and the name of "Lawson Runyon, J. P." written across each wafer. C. S. J. P. No. 88. Certified copy sent to clk. ct., Aug't 7, 1855.

(Indorsement on wrapper:) Depositions to establish the claim of the representatives of John Percifield to the Hot Springs, in the State of Arkansas. Commissioner of the General Land-Office of United States, Washington, City, D. C. Delivered to John C. Hale, to convey to the Commissioner of the General Land-Office, or the register & receiver, at Washington, on this 22nd June, 1850. Lawson Runyon, J. P. Dr. Fraily. July 23d, '50.

D. Peircifull.—Bond, assignment, & certificate.

STATE OF ARKANSAS,
County of Hot Spring:

This day personally appeared before the undersigned, clerk, David Percifull, and acknowledged that he had, on the tenth day of January, A. D. 1848, assigned to John C. Hale a certain bond given by John C. Hale and Milus H. Woods, for ten thousand dollars, in consideration of his right of pre-emption to the Hot Springs tract of land, bearing date sixteenth day of November, A. D. 1840, the same being assigned on the original bond on the 10th day of January, A. D. 1848.

This January 14th, 1848.

WILEY PATTERSON,
Clerk of Hot Spring Circuit Court.

STATE OF ARKANSAS,
County of Hot Spring:

I, Wiley Patterson, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 14th day of January, A. D. 1848, and the same is now duly recorded in record-book B, page 279.

In testimony whereof I have hereunto set my hand and affixed my official seal, at Rockport, this 14th day of January, A. D. 1848.

WILEY PATTERSON,
Clerk and Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, Jno. P. Emerson, clerk of the circuit court and ex-officio recorder within and for said county, do hereby certify that the foregoing one page contain' a true, perfect, and complete copy from the record in my office, as therein mentioned.

In testimony whereof I have hereunto set my hand as such clerk and ex-officio recorder, and affixed my official seal, at office, on this 5th day of September, A. D. 1855.

JNO. P. EMERSON,
Clerk & Ex-officio Recorder,
By AUGUSTUS D. HARDY,
Dep. Clerk.

(Indorsed:) D. Percifull to John C. Hale. Assignment. Clerk's fee, $0.50.

217 Know all men by these presents that we, John C. Hale and Milus H. Woods, are held and firmly bound unto Sarah Percifull

and David Percifull in the sum of three thousand dollars, which payment, well and truly to *me* made, we hereby bind ourselves, severally and jointly, our several and joint heirs, ex'utors, and administrators, firmly by these presents.

In testimony whereof we have hereunto set our hands and seals this the 16th day of November, A. D. 1840.

JOHN C. HALE. [SEAL.]
MILUS H. WOODS. [SEAL.]

Attest:
WARREN DUNHAM.
JOHN C. KUYKENDALL.

(Written across the face:)

This bond is canceled by full payment having been made by J. C. Hale this the 7th April, 1845.

DAVID PERCIFULL.

Witnesses:
W. W. BRONOUGH.
CYRUS A. HALE.

The condition of the above obligation is such, whereas the said above-bound John C. Hale and Milus H. Woods have this day purchased of the said Sarah & David Percifull, deceased, in part, and the residue by and under the control of the said Sarah and David Percifull on the public lands of the United States designated, to wit, the west half of section thirty-three, in township No. (2) two south, of range No. (19) nineteen west, of the fifth principal meridian, and subject to sale at Washington, Arkansas, together with possession, improvements, and all furniture thereunto in anywise appertaining; also, one-half of all the lands, waters, benefits, and privilege' thay me be acquired from or granted by the Government of the United States or that of the State of Arkansas, in consideration of said improvements and settlement-right unto them, the said John C. Hale and Milus H. Woods, their heirs and assigns; in consideration of which, we, the said John C. Hale and Milus H. Woods, bind ourselves, heirs, executors, administrators, and assigns, severally and jointly, to discharge the above bond as follows, to wit: to pay or cause to be paid the sum of sixteen hundred and eighty dollars and four cents, the ballance due on a judgment in favor of Messrs. Conway & Rayborn, and obtained against the said Sarah & David Percifull and Warren Dunham at the February term of the circuit court in and for Hot Spring County, Arkansas, A. D. 1840, and the further sum of one hundred and fifty dollars on or before the ninth day of December, A. D. 1840; also, the residue of eleven hundred and sixty-nine dollars and ninety-six cents on or before the first day of January, 1843, the sum of two hundred dollars of which is to be paid at sight, provided the land on which David Percifull now resides is offered for sale previous to the above stipulated time; for all of which we bind ourselves, our heirs, executors, administrators, and assigns, for the faithful discharge of the several sums, at the stipulated times of payment, unto the said Sarah and David Percifull, their heirs, executors, and administrators, and assigns; and whenever the said John C. Hale and Milus H. Woods do pay or cause to be paid the several sums in manner and form as prescribed, the above obligation to be nul' and void, but if default shall be made in the payment of any or either of the said sums on the days and times hereinbefore mentioned and appointed for payment thereof, respect*ful*ly, then to be and remain in full force and virtue; and we, the said John C. Hale and Milus H. Woods, do firmly bind ourselves, heirs, ex-

ecutors, administrators, and assigns, severally and jointly, in the further sum of ten thousand dollars, payable and conditioned as follows, that is: whenever the said Sarah & David Percifull make or cause to made a deed in fee-simple with a general warrantee to one-half of the one hundred and sixty acres of land which they may acquire of the Government of the United States in consideration of settlement and pre-emption right on the west half of section thirty-three in township No. (2) two south, of range No. (19) nineteen west, and embracing the Hot Springs by said settlement, the said half conveyed to the said John C. Hale and Milus H. Woods, their heirs and assigns, shall embrace one-half of the Hot Springs, so as to make that part thus conveyed to the said John C. Hale and Milus H. Woods to be equal in value to the residue of said land; and when the said conveyance shall have been made and confirmed unto the said J. C. Hale and Milus H. Woods, their heirs, executors, administrators, and assigns are held and bound for the faithful payment of the above-mentioned ten thousand dollars; but should the said Sarah & David Percifull be unable to make the legal conveyances as above mentioned, by being prevented by other claims or by the General Government, then and in that case both parties are released so far as the conveyance and the sum of ten thousand dollars without damage to either party; but should the said Sarah & David Percifull, their heirs, executors, administrators, and assigns, obtain a patent from the General Government for the said land, and refuse to make or cause to be made the deed as above specified, then and in that case the said Sarah & David Percifull do agree, and their heirs and assigns are bound, to pay unto the said J. C. Hale and M. H. Woods, their heirs and assigns, the sum of fifty thousand dollars as a consideration for their services and money expended in establishing the said right of pre-emption; but if conveyed as above agreed, the fifty thousand dollars to be nul' and void; and the said Sarah & David Percifull do agree to pay unto the said J. C. Hale and M. H. Woods, their heirs and assigns, the value of all improvements which may be included in their part of said land above mentioned, which sum is to be placed to the credit of the ten thousand dollars agreed on to be paid by the said J. C. Hale and M. H. Woods, their heirs and assigns, as the consideration of the conveyance to be made or caused to be made by the said Sarah & David Percifull, their heirs and assigns.

Furthermore be it expressly understood that the furniture and improvements thus sold and purchased and set forth in said contract shall be held by the said Sarah & David Percifull as security for the faithful discharge of the three thousand dollar bond, though equally understood by the parties that the said furniture and improvements thus sold and purchased shall remain in the hands of the said Hale and Woods until all of the aforesaid bonds shall have become due, which, if punctually paid, the said security is then nul' and void, but if not punctually paid the aforesaid security remains in full force and virtue.

In testimony whereof we have hereunto set our hands & seals this the 16th day of November, A. D. 1840.

JOHN C. HALE. [SEAL.]
MILUS H. WOODS. [SEAL.]
her
SARAH + PERCIFULL. [SEAL.]
mark.
DAVID PERCIFULL. [SEAL.]

Attest:
WARREN DUNHAM.
JOHN C. KUYKENDAL.

218 HOT SPRINGS, *April 7th*, 1846.

Received this day be me from the hands of John C. Hale, on his own account, the sum of one thousand nine hundred and eighty-eight dollars, which is here credited to his portion of the ten thousand dollars within named.

DAVID PERCIFULL.

Witness: W. N. BRONAUGH.

STATE OF ARKANSAS,
County of Hot Spring:

I, Wiley Patterson, clerk of the circuit court and ex-officio recorder in and for the county of Hot Spring, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 15th day of September, A. D. 1846, and the same is now duly recorded in record-book B, pag's 182, 3, 4, & 5.

In testimony whereof I have hereunto set my hand as such clerk, and affixed my official seal, at Rockport, this 1st day of October, A. D. 1846.

WILEY PATTERSON,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, Jno. P. Emerson, clerk of the circuit court and ex-officio recorder within and for said county, do hereby certify that the annexed and foregoing seven pages contain a true, perfect, and complete copy of the record therein mentioned.

In testimony whereof I have hereunto set my hand as such clerk and ex-officio recorder, and affixed my official seal, at office, on this 5th day of September, A. D. 1855.

[SEAL.] JNO. P. EMERSON,
Clerk & Ex-officio Recorder.
By AUGUSTUS D. HARDY, *Dep. Clk.*

(Indorsed:) Hale & Woods to D. & S. Percifull. Bond. Transcript. Clerk's fees, $1.25.

STATE OF ARKANSAS,
Hot Spring County, ss:

Know all men by these presents that I, David Percifull, citizen of the county of Hot Spring and State of Arkansas, have this day bargained and sold, transferred and delivered, and by these presents do bargain, sell, and deliver unto John C. Hale, likewise of said county and State, his heirs and assigns forever, all of my right, title, interest, and claim in and unto a certain tract or parcel of land, situate, lying, and being in the aforesaid county and State, known as the Hot Spring tract, and being known, as designated, as the southwest quarter of section thirty-three, (33,) township two south (2) of range 19 (nineteen) west of the fifth principal meridian, in the district of land subject to sale at Washington, Arkansas, said tract being the same owned and held by me as the legal heir and lawful representative of my late father, John Percifull, deceased; and it is my request and desire that a patent may issue in the name of the said John C. Hale, his heirs or legal representatives, for the same. In consideration whereof I do hereby acknowledge the rec'ipt in full for the same, the sum of eight thousand dollars, cash in hand to me paid by him, the said John C. Hale, before the sealing and signing of this deed.

And I, the said David Percifull, do hereby warrant and guarantee forever unto him, the said John C. Hale as aforesaid, against the claim of all persons claiming by, through, or from me in any manner whatever; and, further, from this day henceforth do place and consider him, the said John C. Hale, now in the possession of all the premises aforesaid, together with all and singular the appurtenances and improvements thereunto attached in any every way whatever.

Witness my hand and seal, at Hot Springs, this the 10th day of January, 1848.

DAVID PERCIFULL. [SEAL.]

Witnesses:
LORETTO T. HALE.
WILLIAM G. RECTOR.

COUNTY OF HOT SPRING, *ss:*

Be it remembered that on this 10th day of January, 1848, personally appeared David Percifull, the grantor to the above and foregoing deed, before the undersigned, justice of the peace of Hot Spring County and State of Arkansas, and acknowledged the same as for his act and deed.

Signed and sealed for the consideration and purposes therein mentioned and set forth.

LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

Be it remembered that on this 10th day of January, 1848, personally appeared Elizabeth Percifull, wife of David Percifull, whose name appears upon and is subscribed to the annexed and foregoing deed, before the undersigned justice of the peace, and, being examined apart from her said husband, acknowledged and declares that she had signed and conveyed her right of dower in the premises therein mentioned freely and of her own accord, without any force or compulsion of her said husband, and I so certify.

ELIZABETH PERCIFULL.

Witness my hand and seal at Hot Springs this 10th Ja'y, A. D. 1848.
CHARLES BURKE, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Wiley Patterson, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 14th day of January, A. D. 1848, and the same is now duly recorded in record-book B, page 284 & 285.

In testimony whereof I have hereunto set my hand and affixed my official seal, at Rockport, this 14th day of January, A. D. 1848.

[L. S.] WILEY PATTERSON,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, Jno. P. Emerson, clerk of the circuit court and ex-officio re-
219 corder within and for said county, do hereby certify that the foregoing four pages contain a true, perfect, and complete copy of the record in my office, as therein mentioned.

In testimony whereof I have hereunto set my hand as such clerk & ex-officio recorder, and affixed my seal of office, at Rockport, on this 7th day of September, A. D. 1855.

[SEAL.] JNO. P. EMERSON,
Clerk & Ex-officio Recorder,
By AUGUSTUS D. HARDY,
Deputy Clerk.

STATE OF ARKANSAS:

I, Elias N. Conway, governor of the State of Arkansas, and keeper of the seal thereof, do hereby certify that John P. Emerson, whose name is signed to the annexed instrument of writing, was at the time of signing the same clerk of the circuit court and ex-officio recorder in and for the county of Hot Spring, in said State, duly commissioned according to law, and that his attestation is in due form.

In testimony whereof I have hereunto set my hand, and caused the seal of said State to be affixed, at Little Rock, on the 10th day of September, A. D. 1855, and of the Independence of the United States the eightieth year.

[SEAL.] ELIAS N. CONWAY.

By the governor:
D. B. GREER, *Secretary of State.*

(Indorsed:) David Percifull & wife to John C. Hale. Deed.

Opinion of Receiver Hempstead.

RECEIVER'S OFFICE,
Washington, Arkansas, February 10th, 1851.

SIR: Under instructions from your Department, under date of Oct. 23rd, 1850, the register and receiver of the land-office at this place, after giving due notice to all parties in interest, did, on the 20th day of January, 1851, proceed to hear the evidence which might be produced for as well as against the claim of the legal heirs and representatives of John Percifull, deceased, by pre-emption, to what is known as the Hot Springs. The questions of law arising out of the conflicting claims to the Hot Springs being reserved for the consideration of your Department, all that the local land-officers have to do is to give their opinion on the "sufficiency or insufficiency of the evidence as to the performance of the things prescribed by law in reference to the settlement, cultivation, and possession of the party." In accordance with what I deem the spirit and intent of the instructions above ref*f*er'd to, I will now proceed to give my views as briefly as the nature of the case will admit.

It appears that the heirs and legal representatives of John Percifull, deceased, base their claim to a right of pre-emption on the 5th section of the act of Congress approved April 12th, 1814, which reads as follows:

"That every person, and the legal representative of every person, who has actually inhabited and cultivated a tract of land lying in that part of the State of Louisiana which composed the late Territory of Orleans, or in the Territory of Missouri, which tract is not rightfully claimed by any other person, and who shall have not removed from said State or Territory, shall be entitled to the right of pre-emption threeof, under the same restrictions, conditions, provisions, and regulations in every respect as is directed by the act entitled "An act giving the right of pre-emption in the purchase of lands to certain settlers in the Illinois Territory, passed February 5th, 1813."

In order to establish a pre-emption right under this act, Sarah Percifull, the widow of John Percifull, deceased, on the 2nd day of June, 1838, made her declaratory statement or affidavit, in which she substantially states: That, on the 5th day of May, 1814, she came to the Hot Springs, in company with her uncle and others, and rented a cabin and small piece of ground of John Percifull, who, she states, was in possession of and claimed the cl'arings and improvements; that there was between an acre and an acre and a half in cultivation, and claimed by no one else than Percifull; that the cl'aring was under fence, and when she came there the ground was in a condition to be sowed and planted, and a part of which ground her uncle rented from Percifull for a garden. She further states that a family by the name of Foster stated they had been at the same place in 1813 and rented a part of the same cl'aring from Percifull, and cultivated it in vegetables, &c., &c. That she was married to Percifull in 1815; that in 1819 Percifull went to Red River, and staid some 9 or 10 months, but that, during that time, Percifull, as usual, rented his possessions at the springs to various persons, and returned once to the springs during the time. She further states that Percifull, as he told her, came to the springs in 1809 and commenced his improvements; made many persons build houses or cabins for the use of the warter and their board. Percifull died 26th July, 1835, leaving affiant as his widow, and one child, David Percifull, and that the possession of said springs continued in said Percifull and affiant from 1814 to 2nd June, 1838, the time when said statement was made. Said Sarah Percifull, on the 2nd day of July, 1838, made an additional affidavit, but having, as I conceive, no special bearing on this case, I make no extracts. David Percifull, their heir, on the 2nd day of July, 1838, al'o made his statement. It is unnecessary to refer to it in any other light than as a declaration of the right claimed for his ancestor, John Percifull.

Here, then, we have the law, and the particular manner which the legal representatives of John Percifull seeks to avail themselves of their supposed right under its provisions.

Mrs. Percifull is dead; and the inquiry is, how stands her character, or how did it stand, among her neighbors? David Bassett, Samuel Sorter, William Davis, and W. C. Kelly, all witnesses who deposed before us, say unhesitatingly that she was a person who stood above reproach, and they would certainly believe her under oath without any doubt. Under these circumstances her statement with me occupys high ground.

The next step is to examine the evidence taken before us, as well as that which is found in the transcript sent us, and see how far Mrs. Percifull's statement is sustained or weakened.

And, 1st—

Warren Dunham, an ex-parte statement made on the 2nd of June, 1838:

He deposes: He reached the springs on the 18th of June, 1814; found between 20 & 30 cabins erected, and thinks about one and a half acres of land cleared and under fence; was told by a man by the name of Gibbins that he had rented a part of the land for two years before from John Percifull, and that he, Gibbins, was cultivating it when he
220 reached the springs; Percifull claimed to be the proprietor of the springs, and all that came there got in under him and by his consent, and that Percifull and his widow have had possession of the springs from 1814 to the date of his statement. He made an additional statement on the 2nd July, 1838, which it is not necessary to notice.

Dunham is still living, and resides some 70 or 80 miles from this office; was not produced in person; but David Bassett, Samuel Sorter, and William Davis swear they would believe him on oath beyond doubt. William C. Kelly thinks his character for truth and veracity was not relied on in some instances, but did not think proper to state the instances. I cannot do otherwise than receive his testimony.

And 2nd. Silas Dood, ex-parte statement made on the 6th June, 1838. He is dead.

He states that in 1812 he was at the springs, and that John Percifull, deceased, was in possession of them; there was several cabins, and he thinks about an acre of ground cleared and under fence. The ground was cultivated in peas', beans, &c., &c.; understood from Percifull and every one there that it was Percifull's. It was understood by all that the springs, the place, and improvement belonged to or was claimed by Percifull.

Abner Highnite swears he knew Dood well, and would certainly believe him on oath. I cannot do less, and hence I receive his evidence also.

And 3rdly. Thomas Holman, ex-partee deposition made on the 12th Oct., 1843.

He states that Percifull built the first house at the springs in 1812 or '13, and cultivated there in those years; that he was in possession, by personal residence of himself, family, and tenants, from that time to his death. Said Holman further adopts the statement made by Mrs. Sarah Percifull on the 12th Oct., 1843, as his own. She states in that as she has before stated, with some few additions not material to the present question. His character is sustained by the evidence of David Bassett, Samuel Sorter, William Davis, and W. C. Kelley; all depose they would believe him on oath. I shall receive his evidence.

And 4thly. Thomas Woodward.

He states that he came to the Hot Springs in June, 1816; came in the month of May and remained until some time in June; that he boarded with John Perciful and his wife, who were keeping boarding-house at the springs; that Percifull claimed the springs as being the only settler under the then existing laws; that the settlement, improvement, and cultivation of Percifull was on the quarter-section on which the Hot Springs are situated. Legal notice of the time and place was given to Mrs. Belding & Henry M. Rector, consequently there can be no objections urged to this evidince on the ground that it is ex-parte. It is received by me.

And lastly, James Neel, ex-parte deposition made on the 10th day of June, 1850.

The evidence of this person goes far to support the statement of Mrs. Percifull, and is more full than that of any other witness, but being still living, and no evidence being introduced to support his character, his statement I take for nothing.

I believe I have now briefly noted all the material evidence of a positive character in support of the claim of the heirs and legal representatives of John Percifull, deceased, and this evidence brings the conviction to my mind that "settlement, cultivation, and possession" of the Hot Springs was in John Percifull on the 12th day of April, 1814, and prior to that time.

I will no' proceed to review the evidence adverse to the claim.

And first, Jacob Barkman, who deposed before us, states:

He came to this country in 1812, and thinks he was at the Hot Springs in June, 1812, and remained some 2 or 3 days. There was at that time

not exceeding half a dozen houses, and some camps and tents in the possession of various individuals who came to attend the springs; states that in 1812 the Fitz Gibbinses had a little patch then cultivated as a garden; knew John Percifull; became acquainted with him in 1809; saw Percifull at the Hot Springs Landing, on the Ouachita River, in 1812; had a farm there; was there again in 1813; Percifull resided at the same place; was at Percifull's several times in 1814; lived at the same place; thinks he saw Mr. Highnite at Percifull's, but did not become acquainted with him; thinks he saw Percifull at the springs in 1812, '13, & '14; that he went there to furnish venison and other things to invalids; does not think he ever saw anything like cultivation by Percifull in *in* 1812, '13, or '14; thinks Percifull did not live at the springs in 1814 or '15, and not till 1819. He states that the country about the springs is but little account for cultivation; from an acre to two acres is all he deems fit for cultivation. The witness then states, positively, that Percifull did not live or cultivate at the springs in 1812, '13, or 14. In 1812 Percifull had no wife. He further states that he visited the springs once in 1812, and probably 2 or 3 times in 1813.

And second, Abner Highnite:

States he came to the country in 1810 or '11; first stopped at the salt-works on the Ouachita River; went from there to Mr. Percifull's, and lived with him one or two years. Percifull then resided about 7 miles from the springs; thinks he left Percifull's house in 1813, and thinks the next time he saw him was in 1815; was then living on his original place on the Ouachita; was at the Hot Springs in 1812, '13, and in 1811. In 1813 there was a few half-faced camps at the springs. In 1812 or '13 one Manuel Prudhomme and his brother built a chunk of a house there; thinks there was a fourth of an acre of ground cultivated at the springs when he lived with Percifull, and was cultivated by one Moreau in lettuce, water-melons, &c.; that is all he recollects. The ground was enclosed with a brush fence; saw no other cultivation in 1812 or '13. Percifull cultivated no ground at the springs while witness staid with him. Percifull told him he wanted to improve the springs that they might be valuable; that people looked up to him as the proprietor, because he furnished them provisions, breadstuffs, and meat; in consequence of Percifull's kindness to the visitors at the springs, when they left they gave up to him their camps, &c., considering him the proprietor of the springs, and that his object in clearing and cultivating land on the Ouachita was to furnish supplies to the visitors at the springs. Percifull had no wife in 1812, '13, or 1811.

And thirdly:

Bernard Bonne states he came to the county in 1804; was at the Hot Springs in 1813; saw no houses, but where some had b*inn* burned; saw some camps made of poles; saw no land in cultivation, and had to cut away the briers and bushes to get to the springs; saw Percifull on the Ouachita 7 or 8 miles from the springs; was at the springs again in May, 1814; did not see Percifull, but he lived on the same place on the Ouachita where he saw him before. The persons I saw at the springs in 1814
221 were merely visitors. He states, on cross-examination, that he did not stop at the springs in 1813; only went to see them, and returned immediately. In 1814 staid some 4 or 6 days.

And lastly, the evidence of R. C. Hawkins & Charles Rapley, which only goes to establish the point that Purcifull lived on the Ouachita River 1813 & '14; and this closes the evidence adverse to the claim.

The question now arises, has it overturned or materially impaired the evidence in favor of the claim? I am of the opinion it has not.

It is admitted that Barkman, Highnite, and Rapley are men of the first respectability, and full credit is due to their statements so far as they swear from their own knowledge.

Barkman, from his own statement, shows he was at the springs but once in 1812, and but a very transient visitor in 1813 & '14, and, consequently, could not be in possession of the same knowledge that Holman and others were who lived there, and swear positively to a state of facts altogether different from Barkman's loose impressions. There is one point, however, in Barkman's deposition which I will notice, tending, as I think, to bear me out in my conclusions. It is this: he states that in 1812 the Fitz Gibbinses had a *a* little patch in cultivation at the springs. Dunham, a witness for Percifull's heirs, states he came to the springs in 1814; found the Gibbenses there, and was told by one of them that he had rented the same piece of land he was then cultivating for 2 years from John Percifull. Again, Barkman states he does not think Percifull did not live at the springs till 1819. Thomas Woodward states that he boarded with John Percifull & wife at the springs in 1816. I merely mention this last matter to show how easy it is for a witness to be mistaken when he relys upon his own impressions without the aid of specific facts. It appears to me that all that Barkman's evidence fully covers is that Percifull lived on the Washita River, or cultivated a farm there. The testimony of Highnite only goes to prove the same points, for he knows but little of Percifull after he left him in 1813. The evidence of Rapley and Hawkirs go to establish the same point. Highnite qualifies his evidence by stating that Percefill's object in settling the farm on the Washita was to supply the springs with provisions, a step, it appears to me, quite natural, as it is abundantly shown that there was not more than one and half acres of ground at the springs susceptable of cultivation. Bernard Bonne's evidence is of the same import, with this exception, that he states that in 1813 he was at the springs; saw no cultivation, and had to cut his way to the springs thro' briers and bushes with his knife. All the other witness' who have spoken on this point fully concur in the fact that there was cultivation there in 1813 and prior to that time, tho' they do not all agree as to who cultivated. In conclusion, it appears to me, upon a minute examination of the whole evidence against the claim, there is but one point established—that is, that Percifull cultivated a farm on the Ouachita River, some 7 or 8 miles from the springs, in 1812, '13, & '14, and resided there a part of his time; but this cultivation and residence, so far as the proofs shows, is by no means incompatible with his "settlement, cultivation, and possession" of the Hot Springs during the same period of time.

It is therefore my opinion that John Percifull was entitled to a pre-emption on the southwest quarter of section thirty-three (33) in township two (2) south, of range nineteen (19) west, under the provisions of the act of Congress approved April 12th, 1814, and that his legal heirs or representatives are entitled to enter the same at the minimum price of $1.25 per acre.

BERNARD F. HEMPSTEAD,
Receiver.

To the COMM'R GEN'L LAND-OFFICE,
Washington City, D. C.

(Indorsed:) Opinion of the receiver on the pre-emption claim of the heirs & legal rep's of John Percifull. G. L. O. Received in letter of register dated 18 Mar., 1851, office No. 3494 B. Is of the opinion that

settlem't, cultivation, and possession were in John Percifal on the 12th of Ap'l, 1814, & that his heirs & legal rep's are now entitled to enter it by pre-emption at $1.25 per acre, under the act of that date.

222 *Opinion of Register Van Etter.*

REGISTER'S OFFICE, WASHINGTON, ARKS.

To the Hon. JUSTIN BUTTERFIELD,
Com'r of Gen'l Land-Office:

SIR: In compliance with your letter of instructions, bearing date 23d of October, 1850, remanding to the land-office at this place the different pre-emption claims to the tract of land in this district upon which the Hot Springs are situated, for re-investigation and adjudication by the register & receiver, I have to report that the investigation thereby authorized was commenced on the 20th day of January, 1851, the adverse claimants having been duly notified of the time and place appointed for the purpose, and to submit the following review of the testimony, as the grounds upon which I base my opinion on the claim of the heirs and legal representatives of John Percifull, deceased.

The heirs and legal representatives of John Percifull, dec'd, claim under the act of 12th of April, 1814.

The 5th section of this act provides "that every person, and the legal representatives of every person, who has actually inhabited and cultivated a tract of land," &c., "which tract is not rightfully claimed by any other person," &c., "shall be entitled to the right of pre-emption in the purchase thereof, under the same restriction," &c., "as is directed by the act entitled "An act giving the right of pre-emption in the purchase of lands to settlers in the Illinois Territory," passed Feb'y 5th, 1814.

In reviewing the testimony I shall confine myself to the examination of the proof in connection with the *with the* requirements of the law, which I conceive to be actual inhabitancy and cultivation prior to the passage of the act, not inhabitancy and cultivation by proxy. Commencing with the testimony previously submitted to the Commissioner of the General Land-Office in support of this claim, a transcript of which was furnished the register and receiver here, and giving it all the weight to which it is entitled, I will proceed as briefly as possible to the examination of what I conceive to be the points to be established by the claimant, viz, actual inhabitancy & cultivation prior to the passage of the act under which they claim.

First in order is the statement of Sarah Percifull, widow of John Percifull, and, at the time of making her statement, one of the claimants. In the formation of my opinion this statement will have but little weight, first, because of her interest, and secondly, because she could have known nothing of her own knowledge of the actual inhabitancy and cultivation of the tract in question by John Percifull prior to the passage of the act, as by her own statement she did not arrive at the Hot Springs until the 5th of May, 1814. I regard this statement merely as a notice to the register & receiver, as required by the provisions of the act.

Warren Dunham, the next deponent, states that he first reached the Hot Springs on the 18th of June, 1814, a period subsequent to the passage of the act under which the heirs & legal representatives of Percifull claim. He further states that he found between 20 & 30 cabins erected about the springs, and about an acre & a half of land in cultivation and under fence, and that John Gibbons, who cultivated it when

deponent reached the springs, told him (deponent) that he had received a part of it for two years before from John Percifull. He says Percifull claimed the springs as proprietor, but does not state that he actually inhabited or cultivated the land, but that Gibbons cultivated under Percifull. This deponent is dead.

David Percifull, only surviving child of John Percifull, dec'd, and one of the claimants, deposes that he was born, according to the family record, on the 11th day of December, 1815, twenty months subsequent to the passage of the act. The objections made to the reception of the statement of Mrs. Sarah Percifull apply with equal force to the statement of her son. David Percifull was present but was not examined.

The testimony of Richard C. Hawkins does not extend farther back than the year 1828; consequently, is regarded as having no bearing upon the points to be established.

Silas Dodd is the first witness who testifies that he was at the Hot Springs prior to the 12th of April, 1814. He states that he arrived there, he thinks, in June, 1812, and that Percifull was then in possession of them. He does not state whether this possession was actual or by tenant. He further states that there were several cabins around the springs, and about an acre cleared, fenced, and in cultivation in peas, beans, &c., and that he understood from Percifull, & every one there, that it was Percifull's. This deponent is dead, and his testimony is contradicted by the testimony of Barkman, Hignight, & others, who were produced and examined before the register and receiver here.

James Neel states that he has resided in the vicinity of the Hot Springs ever since the year 1812; that in the summer of that year he became acquainted with John Percifull, then in possession of said springs, claiming them by settlement right, and had at that time a house within fifty yards of one of the main springs, and that he also had a garden, or truck-patch, immediately east of Hot Spring Creek, close up to the Hot Spring Mountain, in which there was a cultivation of vegetables, and it was called Percifull's truck-patch. He also states that he did not see Percifull or any other person cultivating the same, tho' that and all other improvements were called Percifull's. He states further that in the spring and summer of 1814, John Percifull and Sarah Ubanks lived at said Hot Springs, and kept a house for the accommodation of visitors; that he was there in said year, and found them in possession of the same house which Percifull occupied in 1812, and the same garden was cultivated, and called Percifull's. He does not state that Percifull cultivated it. This is the first witness who speaks definitely of actual inhabitancy by Percifull prior to the passage of the act of 12th of April, 1814. This deponent is still living, but was not produced for re-examination; consequently his testimony,
223 which is contradicted by the positive testimony of Barkman & Hignight, will have but little weight in the formation of my opinion.

Thomas Woodward's testimony relates to inhabitancy and cultivation by Percifull & wife in 1816, some time subsequent to the passage of the act, & in my opinion has no bearing on the points to be investigated.

The deposition of William Davis relates to inhabitancy in 1819, and is consequently regarded by me as having no bearing on the points at issue.

Thomas Holeman, on the 12th of Oct., 1843, deposed that he had been acquainted with John Percifull for 33 years, and that Percifull built the first house at the Hot Springs, in the year 1811 or 1812, and did cultivate on said quarter-section in the years 1812 and 1813, and that he was in possession by personal residence of himself & his family

and tenants up to his death. This deponent is dead, and his testimony is directly contradicted by the positive testimony of Hignight & Barkman, who were examined before the register & receiver.

This constitutes the sum & substance of the testimony upon which the heirs and legal representatives of John Percifull, dec'd, rely to establish their right of pre-emption to the tract of land in question. Of all the witness' who have here deposed, the testimony of but two, James Neel and Thomas Holeman, in my opinion have any bearing upon the points to be established. Neel testifies that Percifull did inhabit the tract prior to the passage of the act of 12th April, 1814. This deponent, as it appeared during the examination, still lived in the vicinity of the springs, but was not produced for re-examination. Thomas Holeman testifies to actual inhabitancy and cultivation by Percifull prior to the passage of the act of 1814. This deponent is dead. The testimony of both is ex parte, and is disproved by the testimony of Jacob Barkman and Abner Hignight, both of whom are personally known to me to be reliable, and of good standing, and in whose statements I have implicit confidence. The testimoney of Barkman and Hignight, who subjected themselves to a rigid cross-examination before the register & receiver, not only contradicts the testimony of Neel & Holeman, but proves conclusively that Percifull did not actually inhabit and cultivate at the Hot Springs in the years stated in the depositions of Neel & Holeman, prior to the passage of the act of 12th April, 1814, nor until some time afterwards. Barkman & Hignight, as will be seen by reference to their testimony, had every opportunity of knowing the facts, and their statements are entitled to full faith and cridit.

Jacob Barkman deposes that he came to the country on the 7th day of January, 1812; that he was at the Hot Springs in June, 1812, and remained there two or three days; that there were about a half-dozen log-cabins there at the time, and some camps & tents; that the brothers Fitz Gibbons were there part of the years 1812 & '13, and does not know but they were there in the summer of 1814; that a man by the name of Gray remained there during the whole of the year 1814 or 1815. The Fitz Gibbons' had a small garden in cultivation there in 1812, on the northeast side of the branch. He further states that he was again at the springs in 1813, but recolleets no other cultivation in 1812 or 1813 than that mentioned. Deponent first became acquainted with John Percifull in New Orleans in the year 1809; seen him next in the fall of the same year, on Black River, in the State of Louisiana; and the next time he saw Percifull was at the Hot Spring Landing, on the Ouachita River, in the month of June, 1812. Percifull then had a house there, and 5 or 6 acres of land under fence and in cultivation. Deponent was there in 1813, and in May or early part of June, 1814, and in both years Percifull still resided at his farm on the Ouachita, (6 or 8 miles from the springs.) Deponent thinks he saw Percifull at the springs in 1812, 1813, & 1814, and that he went there to furnish venison & other things to the invalids. Was several times at his (Percifull's) farm on the Ouachita after the year 1815, and boarded with Percifull at the springs in 1819. Percifull then told deponent that the houses he was keeping in were left in his charge by Prudhomme, who returned to his residence below Natchitoches, La. Deponent further states that Percifull did not live or cultivate at the springs in 1812, 1813, or 1814, and does not think he did in 1815. There were no persons permanently settled at the springs in 1812, 1813, 1814, or 1815. Deponent also states that Warren Dunham, one of the witness' on part of claimants, lived with him one or two years, during

which time they had frequent conversations relative to Percifull's claim, and that they considered Percifull had no claim because he did not live at the springs. Deponent lives within 35 miles of the springs.

Abner Hignight testifies that he first came to the Territory of Arkansas in 1811, and went to live at Percifull's, on the Ouachita, during the same year. His place is about 7 miles from the Hot Springs. Deponent remained at Percifull's one or two years; thinks he left Percifull's house in the latter part of the year 1813, and was next at Percifull's house in the year 1815. He was still living at the same place, and thinks was married. When witness first went to live with Percifull, he had 5 or 6 acres of land cleared and under fence, and a small house or cabin. Percifull employed witness to clear five acres adjoining the other cleared land, and to make 2,000 rails; and by the instructions of Percifull witness employed a man named Moreau to clear 3 acres adjoining the others. Witness done some of this work in 1811, and finished it in 1812. Percifull cultivated the ground in corn, &c., while witness remained there. After witness returned to Percifull's in 1815 his farm had the appearance of having been cultivated the year previous. The place on the Ouachita is the same where Percifull continued to live until he died. Witness was frequently at the Hot Springs in 1811, 1812, and 1813, while he lived at Percifull's, and saw cultivation there. Moreau had lettuce, water-melons, &c., in cultivation there; seen no other cultivation there during the years 1812 & 1813. Witness further states that Percifull never cultivated any ground, nor lived at the springs while witness stayed with him. Witness and Percifull were as brothers. Percifull never lived or cultivated at the springs that witness knows of. Percifull moved to Red River, witness thinks, in 1816, & remained something like two years and returned. He took his family and good' with him when he removed to Red River. Witness was at the Hot Springs in the summer after Percifull returned from Red River, but did not see Percifull; has not been at the Hot Spring since, and has not seen Percifull or his wife since they stopped at his house, in Clark County, on their return from Red River.

The testimony of Bernard Bonne corroborates the testimony of Barkman & Hignight, so far as it relates to the residence of Percifull on the Ouachita. Bonne testifies that he came to the country in 1804 and settled near Pine Bluff, on the Arkansas River. His father, Mitchel Bonne, made what was known as Bonne's trace, from near Pine Bluff to the Hot Springs. Witness was first at Hot Springs in October, 1813; went there in company with his father & brothers to hunt; saw no houses there at that time, but saw where some had been burned down. There were some camps there made of poles; seen Percifull on the Ouachita River some 7 or 8 miles from the springs. Percifull lived where
224 witness saw him. Was next at Hot Springs on 15th of May, 1814, went on to the Little Missouri River to hunt, and returned to the springs about the last of June. There were then some 40 or 50 persons there; did not see Percifull there. Percifull lived at that time on the Ouachita, where he lived before. Was at Fulsom's house, on the Ouachita, about ¾ of a mile from Percifull's.

Two of the witness' introduced by Mr. Rector, adverse to the Percifull claim, (Barkman & Hignight,) are known to me personally to be men whose statements are entitled to full faith and credit, and their testimony, to my mind, is conclusive on the points in question. Barkman knew Percifull from the year 1809; saw him at his farm on the Ouachita, (seven or eight miles from the Hot Springs,) in 1812, 1813, and 1814. He states positively that Percifull did not live or cultivate

at the springs in the years 1812, 1813, or 1814, and does not think he did in 1815, and that during those years there were no persons permanently settled at the springs. Barkman has lived since 1812 within 35 miles of the Hot Springs, and has been a frequent visitor to them. Hignight testifies that he lived with Percifull, at his place on the Ouachita, in 1811, 1812, and until the latter part of the year 1813, and positively states that during the time he remained there Percifull never lived or cultivated any ground at the springs. He states that Percifull and himself were as brothers, and that Percifull never did reside at the springs to his knowledge. Deponent states that he went back Percifull's in 1815, and that Percifull was still living at his farm on the Ouachita. If Percifull had lived and cultivated at the springs in 1812 or 1813, as stated by Neel & Holeman, or even in 1811, Hignight, who resided with him during part of the year 1811, the whole of the year 1812, and until the latter part of the year 1813, would certainly have known it. His statement, therefore, that Percifull did not reside or cultivate at the springs in 1811, 1812, or 1813, when he lived with him, nor in the year 1815, when he returned to the springs, corroborated by the testimony of Barkman, who deposes to the same facts in 1812, 1813, & 1814, and Bonne, who testifies that in the month of June, 1814, Percifull resided at his farm on the Ouachita, 7 or 8 miles distant from the springs, justifies the conclusion that John Percifull did not actually inhabit and cultivate the southwest quarter of section *of* thirty-three, (33,) in township two (2) south, of range nineteen (19) west, prior to the passage of the act of 12th of April, 1814. Without inquiring into the question of the liability of the land to the opperation of the act, in consequence of the Indian title to the same not having been extinguished, and without reference to the act of March 30th, 1802, which at the time made it a penal offence for any person to make a settlement on any lands "belonging, or secured, or granted by treaty with the United States to any Indian tribe," I am clearly of the opinion that the heirs and legal representatives of John Percifull, dec'd, having failed to establish actual inhabitancy and cultivation, as required by the act of 12th of April, 1814, are not entitled to the benefit of pre-emption. The application to locate is therefore rejected.

WM. H. ETTER, *Register.*

(Indorsed:) Pre-emption claim of heirs & legal representatives of John Percifull, dec'd. Opinion of register.

225 *Letter of J. C. Hale, with affidavits as to the absence of witness and exclusion thereof.*

HOT SPRINGS, ARKANSAS, *July 8th*, 1854.

SIR: Enclosed herewith you will receive the affidavits of George Conway, Ira T. Grant, and Jonathan Irons, by reference to which you will perceive that the protest filed by the heirs of John Percifull, dec'd, against the ruling and action of the register and receiver of the land-office at Washigton, Arkansas, at and upon the re-investigation by them made of the different claims to right of pre-emption to the lands embracing the Hot Springs, in Arkansas, in January, A. D. 1851, under and by virtue of the order of reference made by the Comm'ss'r of the General Land-Office, dated October 23rd, 1850, is, or ought to be, befor' the Land-Office Department for their consideration, and should have been before the Secretary of the Interior at the investigation of said claims when returned by the register and receiver.

In your letter of February 13th, 1854, you say that examination has been made and no such paper found, and that you are inclined to believe that it has never been sent up to the Department. Upon the receipt of your letter, I addressed a letter to Charles B. Mitchell, the present receiver of public monies at Washington, Arkansas, and received his reply, dated April 4th, 1854, which is also herewith inclosed and marked "A."

I would therefore respectfully submit, that no fair and full investigation of the rights to the lands in question could be had, based upon the re-investigation before the register & receiver in January, 1851, so far as the rights of Percifull's heirs were concerned, unless the facts set up in these affidavits had been and were before and in possession of the Land-Office Department at the time thereof. I am fully persuaded that had the return of the register and receiver shown upon its face the facts to be as set up in these affidavits, as it ought to have done, the Department, seeing that manifest wrong and injustice had been done the heirs of Percifull in this respect by the register & receiver, under a mistaken view of their duty in this behalf, under the circumstances would have remanded the Perciful claim to pre-emption back to the register & receiver with directions that they receive the testimony of Stroud, Cox, and others, so far as the facts in the case were concerned, and to act upon the proof when taken, and would have suspended all action in relation to the conflicting claims to the lands embracing the Hot Springs unltil the heirs of Percifull could have a full and fair hearing in this behalf.

Now, as agent for Percifull's heirs, I do protest all proceedings had before the Secretary of the Interior in relation to said case or the lands embraced therein to be wrongful and injurious to Percifull's heirs, and that the conditional entry permitted to be made by heirs of Belding would not have been made had these facts been under consideration of and before the Department at the time of said entry, and that justice to those heirs demands that said entry should be cancelled, and no action had in relation to the lands embracing the Hot Springs until the heirs of Percifull have an opportunity to be fully heard in the premises.

I would respectfully ask that such an order and direction shall now be taken by the Department in this behalf as the Department would have taken had the protest and return of the register & receiver showed the facts in said affidavits to be the true record of their action in that behalf, and I would respectfully suggest that as by law the registers and receivers of the different land districts being sole judges of the facts in pre-emption cases in their respective land districts, that the Percifull claim to be now remanded back to the register & receiver of the land office at Washington, Arkansas, for their action, upon the facts in relation to the right of Percifull's heirs, with such instructions from the Department as you may deem proper for the purposes and ends of justice. And should you differ with me in these views, please refer this communication and all the matters therein contained to the Attorney-General for his opinion as to the rights of Percifull's heirs under the state of case herein and hereby presented.

Please attend to this matter at your early convenience, as one witness, Mr. Cox, has died since said re-investigation, and Mr. Stroud is old and infirm. I have taken the necessary steps to perpetuate the testimony of Stroud, to be used in case of his death in any suit at law or equity growing out of the claim of Percifull's right to the lands in controversy, but I should prefer to have him personally examined before the register & receiver. If he be dead, or his attendance cannot be had, I hope I

shall be permitted to read his deposition, so taken before the register & receiver, at and upon their further investigation, and that your instructions may be so given if said claim should be remanded for further investigation and action.

Respectfully,

J. C. HALE,
Agent for Percifull's Heirs.

To JOHN WILSON,
Commissioner of the Gen'l Land Office,
Washington City, D. C.

(Indorsed:) John C. Hale. July 8th, 1854. Encloses to Commissioner of Land-Office the affidavits of George Conway, Ira T. Grant, and Jonathan Irons.

STATE OF ARKANSAS,
County of Hot Spring, ss:

Be it remembered that on the seventh day of July, in the year eighteen hundred and fifty-four, George Conway, to me personally known to be a credible witness, came before me, the undersigned, a duly qualified and acting justice of the peace within and for the county of Hot Spring, aforesaid, and, being by me first duly sworn, deposeth and saith, on his oath, as follows, to wit:

At the request of John C. Hale, of Hot Springs, I attended as an attorney before the register and receiver of the land-office at Washington, Arkansas, in the month of January, A. D. 1851, during their re-investigation of the several claims to the lands upon which the Hot Springs are situate, to represent the claim of Percifull's heirs to a pre-emption right to said lands.

That on the twentieth day of January, A. D. 1851, said officers called up the pre-emption claim of John Percifull, deceased; and the said John C. Hale, as agent for the heirs of the said John Percifull, moved the officers to postpone the investigation of said claim, and to commence with the investigation of some other claim; and in support of said motion stated that Adam Stroud and Jester Cox, witnesses in support of the Percifull claim, were not present, and that they had promised to be in attendance as witness' on that day, but had not yet arrived; that they each lived in one day's ride of the place of trial, and that he would send a special messenger for them; which motion was op-
226 posed both the agents and attorneys representing the New Madrid location and the claim to pre-emption of Belding's heirs; and the land-officers overruled the motion of Hale as agent aforesaid, and ruled that he should then proceed with the Percifull claim, stating that they would receive such testimony as he could then produce, and that they would allow him a reasonable time to produce his witness', Stroud and Cox, or any other witness he might wish to bring before them.

That the agent and attorney then introduced several witnesses to prove the death and character of several of the witnesses whose testimony had been previously taken and reduced to writing, and sent back by the Land-Office Department to said officers for a re-investigation of said pre-emption claim upon its merits, and also introduced the written testimony so remanded.

No other witness in support of said claim having as yet arrived, said agent then rested for the present.

That several witness' adverse to the claim were then introduced by the party' opposed to said claim.

The witness' in support of said claim not having as yet arrived, the officers, on the twenty-third of said month, as I now recollect, called up the claim to pre-emption of Ludovicus Belding, deceased, for investigation, and this case remained open, and was then being investigated until on or about the twenty-eighth day of said month, as well as I now recollect.

That on the twenty-fourth or twenty-fifth day of said month, *that* the said Stroud and Cox arrived, and the agent and attorny for Percifull's heirs on one of those days, as I now recollect, but certainly while the case of Belding's heirs was before the officers, and while the parties representing the New Madrid location and Belding claim were present, brought said Stroud before the said officers and requested that he and the said Cox should be examined, stating that their testimony was material in support of the claim of Percifull's heirs; that said witness would prove, if examined, that John Percifull, deceased, in his life-time was an actual inhabitant of the lands upon which the Hot Springs are situate, and did cultivate a portion thereof previous to the twelfth day of February, A. D. 1814, and that said Percifull never did remove from the Territory where he so resided until his death; and insisted that their testimony would clearly establish (if admitted) the claim of Percifull's heirs to a pre-emption to be valid and good, and that said *and that said* officers refused to examine said witness', or either of them, though they admitted that they knew the men to be credible witnesses, giving a reason for their refusal that they considered that it was too late to take any further testimony in favor of the Percifull claim at any time after having commenced taking evidence in support of the Belding claim to pre-emption; and that I, as the attorney representing Percifull's heirs, did write out a statement of these facts at the time in the nature of a protest, and did request said officers to sign and file the same among the papers, and to refer the same to the Department for their consideration. The officers promised that they would return all the facts, but I cannot now recollect whether they then signed the protest or not; but the' distinctly, according to my recollection, promised that the Department should be put in possession of *of* all the facts, for that they would make an entry thereof in their filed report after they should come to their conclusions in relation to the several matters to them submitted; they received the paper, and I suppose they signed it.

And further saith not.

GEO. CONWAY.

Sworn to and subscribed before me this 7th July, 1854.

P. BARNES, *J. P.*

And at the same time and place personally came IRA T. GRANT, a witness known to me to be credible, and, being also by me duly sworn, states on oath as follows, to wit:

I am the same man who was examined as a witness in the controversy about the lands embracing the Hot Springs before the register and receiver of the land-office at Washington, Arkansas, in January, A. D. 1851; that I was present before said officers when the attorney for the Percifull pre-emption brought in Adam Stroud, and requested the said officers to take his testimony and the testimony of Mr. Jester Cox in support of the Percifull claim. The attorney for the New Madrid location and the attorney for the Belding claim both objected to the officers receiving said testimony at that time, saying it was then too late, as they were then investigating the Belding claim; and the offi-

cers refused to swear the witnesses or receive their testimony upon that ground. They said they knew the witness' to be good men, but that they considered that after they had taken up the Belding claim *that* they could hear no further testimony in *in* support of the Percifull claim. Mr. Conway, attorney for the Percifull claim, then read a paper, which they called a protest, stating that he expected to and could prove by these witnesses, if the officers would examine them, that the Percifull claim to pre-emption under the act of 1814, was good and valid; for that they would swear that John Percifull in his life-time did live and actually reside upon the lands embracing the Hot Springs, and did cultivate a portion thereof previous to the twelfth day of April, in the year eighteen hundred and fourteen, and that he never did remove from the Territory where he then resided until his death; and requested the officers to sign the paper containing these facts, and file it among the papers and send it up. The officers took the paper and promised to report all the facts to the Department, so that the Department might see the whole case just as it was before them.

And further this deponent saith not.

IRA T. GRANT.

Sworn to and subscribed before me this 7th July, 1854.

P. BARNES,
J. P. Hot Spring County, Ark.

And at the same time and place JONATHAN IRONS personally came before me, the undersigned, justice of the peace, and, being by me duly sworn, deposeth and on his oath says as follows, to wit:

I am the same man who was examined as a witness in the controversy about the lands embracing the Hot Springs, in the State of Arkansas; that after the case of Percifull's claim to pre-emption was taken up, and while said investigation was pending I was employed by John C. Hale, as agent for the Percifull claim, to go as a special messenger for Adam Stroud, a witness in favor of the Percifull claim; and that I returned with said Stroud to Washington, on Thursday, the fourth day of January, A. D. 1851. I got to Washington with Stroud after night of that day. Next day, as well as I now recollect it, Mr. George Conway, as attorney for the Percifull pre-emption, brought up said Stroud before the officers and requested that he might examined as a witness in support of the Percifull claim, and also stated that Mr. Jester Cox, another witness,
227 was also *in* now in attendance. The lawyers for the New Madrid location and for the Belding claim objected to the testimony being taken, as they were then investigating the Belding claim; and the officers refused to receive the testimony of Stroud and Cox, upon the ground that it was then too late, as they were then engaged in the Belding claim. The attorney for the Percifull claim stated said witnesses would establish the Percifull claim as valid. The officers still refused to receive the testimony, and the attorney then wrote out a protest, as he called it, stating that he could prove by said witnesses that John Percifull did cultivate and reside upon the land *the lands* embracing the Hot Springs before the year 1814, and never did remove from the Territory, or something amounting in substance to that effect, and requested the officers to sign the same & file it among the papers, and report the facts to the department for their decision. The officers received the paper for filing, and promised to make a record of all the facts, so that the department might see the whole case just as they saw it; & further this deponent saith not.

J. B. IRONS, *J. P.*

Sworn to and subscribed before me this 7th July, 1854.

P. BARNES, *J. P.*

STATE OF ARKANSAS,
County of Hot Springs:

I, Phineas Barnes, an acting and duly qualified justice of the peace within & for the county and State aforesaid, do hereby certify that the foregoing depositions of George Conway, Ira T. Grant, and Jonathan Irons were by me taken and reduced to writing, in my presanc', on the seventh day of July, in the year 1854; and that I am not interested in the controversy about the Hot Springs, nor of kin to any one interested in said controversy; and that said witnesses are men entitled to full credit on their oath.

Given under my hand this 7th July, A. D. 1854.

P. BARNES, *J. P.*

Affidavits of W. H. Etter and A. Stroud.

STATE OF ARKANSAS,
County of Hempstead, sct.:

Before the undersigned, an acting and duly commissioned justice of the peace, personally appeared WILLIAM H. ETTER, who deposes as follows: That in the year A. D. 1851, I was register of the United States land-office, at Washington, Arkansas; that in the month of January of that year, certain pre-emption claims for lands, embracing the Hot Springs in Arkansas, were referred to the register and receiver of the land-office at Washington for investigation; that the first claim placed before them for investigation was the claim of John Percifull, deceased; that after the investigation of said claim, and while the officers were engaged in investigating the claim of Belding's heirs, as near as I can now recollect, the representatives of Percifull introduced a Mr. Adam Stroud, whose testimony they wished to be taken in support of the Percifull claim, and considered as evidence; but this was refused, solely, as I think, because the investigation of the Percifull claim had been closed. It is also my impression that Geo. Conway, the attorney for the representatives of Percifull, filed a protest at the time against this decision of the land-officers, which protest, it is my impression, was forwarded to the General Land-Office at Washington City, with the testimony and other papers in the case.

WM. H. ETTER.

Sworn to and subscribed before me this 7th day of September, A. D. 1855.

R. L. PHILLIPS, *J. P.*

THE STATE OF ARKANSAS,
County of Hempstead sct.:

I, Thomas T. Sanders, clerk of the circuit court and ex-officio clerk of the county court of Hempstead County, in the State of Arkansas, (which said courts are courts of record,) do hereby certify that Robert L. Phillips, esquire, whose signature appears to the foregoing certificate, is now, and was at the time of signing the same, an acting justice of the peace for said county of Hempstead, duly commissioned and sworn.

In testimony whereof I have hereto set my hand as such clerk, and affixed the seal of said court at my office, in the town of Washington, the 8th day of September, A. D. 1855.

[SEAL.] S. T. SANDERS, *Clerk.*

STATE OF ARKANSAS,
County of Clark:

Before me, the undersigned, acting justice of the peace and duly commissioned as such, personally appeared Adam Stroud, and, first being dully swoarn, deposes and says: That, in January, 1851, I was presented before the register and receiver at Washington, Arkansas, as a witness on the part of Percifull's wright of pre-emption to that tract of land, imbracing the Hot Springs, in said State. The district offeceers refused to take my testamoney, or that of Jester Cock, who was presented at the same time, give as their reason that they ware then exomining the Belding case. I remained there untell they got through that case. Hale then erged the regester and receiver *then* to take mine & Cock's testamoney, & they still refused. I wo'ld have been there sooner, but Mr. Gains said that he wo'ld admit all that I had to say, as there was no claim under the act of 1814. Sence that time Mr. Hale had my deposition taken under a commission from the ju'ge of Hot Springs circuit court, in order to have it perpetuated, as his son told me; & fourther this deponant sayeth not.

A. STROUD.

Sworn to and subscribed before me this 10th day of September, A. D. 1855.

E. A. STROUD, *J. P.*

THE STATE OF ARKANSAS,
County of Clark:

I, Isaac W. Smith, clerk of Clark sircuit court and ex-officio clerk of Clark County, do hereby certify that Elisha A. Stroud (whose genuine and official signature appears to the attestation certificate on the reverse side of this paper) is, and was at the time of the signing the
228 same, an acting and duly-commissioned justice of the peace in and for the county of Clark, duly commissioned and qualified.

Witness my hand as such clerk, and my seal of office, this September tenth, A. D. 1855.

[SEAL.]

I. W. SMITH, *Clerk,*
By W. M. RANDOLPH, *D. C.*

Affidavit of B. F. Hempstead.

STATE OF ARKANSAS,
County of Hempstead:

This day BERNARD F. HEMPSTEAD, of Hempstead County, Arkansas, to me personally well known, came before me, a duly qualified justice of the peace within and for the said county of Hempstead, in said State, and being by me duly sworn, made and subscribed the following affidavit, to wit:

That I was receiver of public monies at the land-office in the district of lands subject to sale at Washington, Arkansas, in 1851; and that I presided as one of the officers of said office upon the investigation of pre-emption claims between the heirs of Percifull and the heirs of Belding, and Henry M. Rector, who represented those interested in a New Madrid claim or location.

The first claim investigated was that of Percifull's heirs. After reading the documentary proof, and hearing the evidence of the witness for said claim, who was present, a notice was made for time to bring be-

fore us Adam Stroud and one Cox, I believe Jester Cox. I was not acquainted with Cox, but knew Stroud, a credible citizen of Clark County. We then demanded if the claimants had no further testimony present. The answer was, there was no further testimony present. We thereupon closed this case, and refused further time to bring in Stroud and Cox as witnesses, and thereupon proceeded to investigate the claim of Belding's heirs. After some days spent thereon, and before the discussion of the land-officers upon any of said claims, Percifull's heirs produced the said Stroud and Cox before us, and demanded that they should be sworn, and their testimony considered by us in the adjudication of said Percifull's pre-emption; which was refused upon the ground sole'y that the claim of Percifull's heirs had been closed previously, and not upon the ground that said witnesses or either of them were disqualified for incompetency or bad character, for the character of Stroud, I as receiver of public monies knew personally, and knew it to be good; as to Cox, I knew nothing about him.

And thereupon, George Conway, as attorney for Percifull's heirs, drew out and *and* presented a protest containing those facts, among other things, for refusing to receiv' the testimony of Cox and Stroud; which protest, as I now believe, was endorsed filed by me as receiver of public monies, and should be filed among the papers of the case, and where now it should properly be fonnd.

But I, as late receiver, do distinctly recollect that said protest was made when the testimony of Stroud and Cox was excluded, and that, under the regulation of the Department, said paper is now or should be in the hands or possession of the register of the land at said land-district as one of the papers properly belonging or pertaining to the establishing the claim to the right of pre-emptiom to the lands in controversy. The lands in said controversy in question are the lands generally known as the Hot Spring tract in the State of Arkansas.

B. F. HEMPSTEAD,
Late Receiver.

Sworn to and subscribed before me this 7th day Sept'r, 1855.

R. S. PHILLIPS, *J. P.*,
Hempstead City, Arks.

THE STATE OF ARKANSAS,
County of Hempstead, set:

I, Simon T. Sanders, clerk of the circuit court and ex-officio clerk of the county court of Hempstead County, in the State of Arkansas, (which said courts are courts of record,) do hereby certify that Robert L. Phillips, esquire, whose signature appears to the foregoing certificate, is now, and was at the time of signing the same, an acting justice of the peace for said county of Hempstead, duly commissioned and sworn.

In testimony whereof I have hereunto set my hand as such clerk and affixed the seal of said court, at my office, in the town of Washington, the 8th day of September, A. D. 1855.

[SEAL.] S. T. SANDERS, *Clerk.*

Lease of L. Belding.

Know all men by this declaration that , L. Belding, of the county of Hot Spring and Territory of Arkansas, do acknowledge and make known that I, the said Belding, did lease the buildings and improvements at the Hot Springs of John Piercifull, and acknowledge his right

to said improvements, and that I have now, before this date, leased said buildings, and all the privileges (except three cabbins, two of which are not mine) to Richard C. Hawkins, until the first day of January, eighteen hundred and thirty-three; then, and at which time, I, the said Belding, agree and bind myself to deliver all and every part of the buildings and improvements of the said Hot Springs that I have or ever had, in the same condition as said Hawkins is to deliver to me, unto John Piercifull, if he demands the same, and that I have no pertentions to the improvement of said springs, except under the claim of the said John Piercifull.

Given under my hand this 2ond April, 1831.

L. BELDING.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that Warren Dunham this day appeared in the county court, in session at Hot Springs, and, being duly sworn for the purpose, on o'th deposeth and sayeth that the annexed and foregoing insterment of writing is in the handwriting of L. Belding, whose name is subscribed thereto, and that said L. Belding did, within a short time after the date thereof, pro'fer to acknowledge the same as for his act and deed for the purposes therein set fourth, and that he, the deponent, was at that time the acting judge of Hot Spring County.

And further this deponent sayeth not.

his
WARREN + DUNHAM.
mark.

229 Sworn and subscribed to in open court this 5th day of January, A. D. 1842.

Attest: LAWSON RUNYON, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that H. A. Whittington and Cumberland Polk this day appeared in open court of the county of Hot Spring, and on their oaths depose and say that the annexed and foregoing insterment of writing is, to the best of their knowledge and belief, in the handwriting of L. Belding, whose name appears upon and is subscribed thereto; that they have often seen him write; & further these deponants say not.

H. A. WHITTINGTON.
C. POLK.

Sworn and subscribed to in open court this 5th day of January, 1842.

Attest:

LAWSON RUNYON, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyon, clerk of the circuit court and ex-officio recorder within and for the county of Hot Spring and State aforesaid, do hereby certify that the annexed and foregoing insterment of writing was filed for record in my office on the 10th day of January, eighteen hundred and forty-two, and the same is now duly recorded in record-book A of deeds & mortgages, pages 265, 266, 267.

In testimony whereof I have hereunto set my hand as such clerk and

affixed the seal of my office, at Hot Springs, this tenth day of January, A. D. eighteen hundred and forty-two.

[L. S.] LAWSON RUNYON,
Clerk and Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring :

I, Wiley Patterson, clerk of the circuit court and ex-officio recorder in and for the county of Hot Spring, do hereby certify that the within and foregoing is a true, full, and complete copy from the record.

In testimony whereof I have hereunto set my hand as such clerk and affixed my official seal, at Rockport, this 1st day of May, A. D. 1846.

WILEY PATTERSON, *Clerk.*

STATE OF ARKANSAS :

I, Elias N. Conway, governor of the State of Arkansas and keeper of the seal thereof, do hereby certify that Wiley Patterson, whose name is signed to the annexed instrument of writing, was at the time of signing the same clerk of the circuit court and ex-officio recorder in and for the county of Hot Spring, in said State, duly commissioned according to law, and that his attestation is in due form.

In testimony whereof I have hereunto set my hand and caused the seal of the said State to be affixed, at Little Rock, on the 10th day of September, A. D. 1855, and of the Independence of the United States the eighteenth year.

By the governor :

[SEAL.] ELIAS N. CONWAY.

D. B. GREER,
Secretary of State.

Letter of the Secretary of the Interior, J. Thompson.

DEPARTMENT OF THE INTERIOR,
Washington, June 7th, 1860.

SIR : Herewith I return the papers submitted with your report of the 27th April last, and enclose the arguments since filed in this Department upon the application of the heirs of Ludovicus Belding for a patent upon their entry of 19th December, 1861, by special certificate No. 6545 of the S. W. quarter of sec. 33, tp. 2 S. of R. 19 W., Washington district, Arkansas, embracing the Hot Springs.

A controversy has been going on for many years before this Department, and recently in the courts of Arkansas and the Supreme Court of the United States, in relation to the title to this tract of land. Rector and others claim under certain locations of a New Madrid certificate and an alleged pre-emption right in the heirs of John Perciful, and Gaines and others, on the other hand, as heirs of Ludovicus Belding ; and the latter are at present the applicants for a patent. Their entry was allowed under a special order of Secretary Stuart, dated November 21st, 1851, made on a suggestion of Attorney-General Crittenden, (who, however, does not appear to have had the case before him regularly for his advice,) although the same Secretary had, under date of October 10th, 1851, in an elaborate opinion, decided against the recognition of all the claims that had then been set up, or are now before me, on the ground that the quarter-section in controversy had been reserved by the act of Congress of 20th April, 1832, and no right to the land had vested in any of the claimants prior to that reservation.

In 1854 the whole case was before Attorney-General Cushing, on the reference by my predecessor to him of an application by Rector, as assignee of Langlois, for a patent upon the location of the New Madrid certificate. That officer, on the 20th August, 1854, pronounced an opinion sustaining Secretary Stuart's decision of October 10th, 1851, and condemning the subsequent allowance of an entry of the land by Belding's heirs. (See Opinions of the Attys. Gen'l, vol. 6, p. 697.) One point, however, in favor of Rector's claim was reserved by Mr. Cushing, viz, as to the validity of the James I. Conway survey, of July 16th, 1820; but this survey has since been declared invalid and unauthorized by the Supreme Court of the United States at the December term, 1859, in the case of John C. Hale vs. W. H. Gaines and others.

Thus it is shown that all the claims of the contesting parties have been heretofore adjudged to be invalid, and that nothing has been declared by the Attorney-General or the Supreme Court which is inconsistent with the decision of Oct. 10th, 1851. That decision appears rather to have been vindicated and sustained. On a review now of the questions involved in the case, I concur in the decision of Secretary Stuart. Moreover, I am of the opinion that this Department had no legal authority in 1851 to allow an entry of the land by the heirs of Belding, or any one else. The issuance of Washington certificate No. 6545 was against law; and that certificate has no validity as against the United States, and should not have been allowed. By allowing it, this Department was placed in an attitude hostile to the act of Congress of 20th April, 1832, which assumed that the land belonged to the United States, and forbade its entry, location, or appropriation for any purpose until some future disposal by the United States; that is, by authority of the National Legislature. The counsel for Belding's heirs, on applying for the entry in 1851, after Secretary Stuart's decision adverse to their right, said that "it was the question of reservation which they
230 wished to try in the courts." But in the litigation which has since arisen this question was not in issue before the courts of Arkansas or of the United States; and I do not see how it can come in issue and be decided by litigation between parties neither of whom have a valid title, though under the laws of Arkansas one may have a right of possession in preference to others.

This case having been repeatedly brought before this Department and fully considered, and the several claims to the land having been repeatedly rejected for reasons which have been concurred in by each succeeding head of the Department through a series of years, I think the time has now arrived at which it is no longer proper to delay a vindication of the position of the Department by appropriate action. The entry of Belding's heirs should, therefore, now be cancelled, the invalidity of all the subsisting claims to this quarter-section declared, and the land held subject to such disposal as Congress may see fit to direct should be made of the same.

The request of the counsel for the heirs of Belding to withdraw their application, after the same had been fully argued by them and carefully examined by me, cannot, for the same reasons, be received with favor and is overruled.

Very respectfully, your obt. servt.,

J. THOMPSON,
Secretary.

The COMMISSIONER OF THE GEN. LAND-OFFICE.

(Indorsed:) F, 36817. Hon. Sec'ty of Interior. June 7, 1860. Returns the papers in the "Hot Spring case." G. L. O. See letters to Henry May, esqr., Jno. Wilson, and Geo. C. Watkins, 23d June, 1860. R. Jun. 7, 1860. Allan.

Letter of the Commissioner of the Genl. Land-Office to the register & receiver at Washington, Ark., Oct. 23d, 1850.

GENERAL LAND-OFFICE,
October 23rd, 1850.

REGISTER AND RECEIVER,
Washington, Arkansas:

Hot Springs. GENTLEMEN: The tract of land upon which is situated the Hot Springs, in the State of Arkansas, has been heretofore located by the New
Francis Langlois. Madrid claim of Francis Langlois, and claimed adversely by
John Percifull. the heirs of John Percifull, and by William Davis and Mary
W'm and Mary Davis. Davis, each under the pre-emption law of 12th April, 1814,
Lydia Belding. and by Lydia Belding under the pre-emption law of 29th May, 1830.

This Office has heretofore held that this land was not legally liable to location by said New Madrid claim or entry under the pre-emption law of 1814, because the Indian title to the same was not extinguished until many years after the passage of the law relating to the first-mentioned class of claims, and the said law of 1814, and that it was protected from the operation of the act of 14th July, 1832, supplementary to the act of 29th May, 1830, by the 3rd sect. of the act of 20th April, 1832, which reserved the said land "for the future disposal of the United States," and directed that it should not be "entered, located, or appropriated for any other purpose whatever."

The late Attorney-General having given opinion that the New Madrid location was a legal and valid one, and, under that opinion, a patent having been applied for by H. M. Rector, esqr., it was opposed by the agents of Mrs. Belding and the heirs of Percefull, and upon a reference of the whole subject to the Secretary of the Interior, he has directed that the pre-emption claims in question be remanded to the district land-officers, in order that the respective parties may be heard upon the facts, and that an adjudication upon such facts may be made by you in each case.

The Secretary directs that each claim will be examined and adjudicated seperately and without reference to the others, or to any questions as to the liability of the land to the one or the other claim, so that all questions of law may be left to the determination of the Department.

You are therefore instructed to give notice to all parties interested of a time and place when and where you will be prepared to hear the testimony of witnesses which the respective claimants by pre-emption may be desirous of having examined, either in support of their own claims or adverse to the claims of either of the others, and also the testimony of such witnesses as Mr. Rector may desire to introduce adverse to the right of either of the pre-emption claimants.

The examination of witnesses should be before you, so that you may be enabled by personal observation, as well as by other means, to judge of the credibility of the witness, and such examination will be full and minute as to the cultivation, improvements, and possession of the respective claimants, as to the nature and extent of such cultivation and

improvements, and as to the species of possession, whether by personal residence or otherwise.

A copy of all the testimony heretofore filed by the respective parties, of which this Office has any knowledge, is herewith transmitted, in order that you may have the same before you when the final adjudication is made, as also to guide you to a critical and thorough examination of each of the cases. This testimony is to be taken by you for what it is worth, subject to objection by an opposing claimant where it is of an ex parte character, or to be invalidated either by the production of counter-testimony of superior weight, or by impeachment of the credibility of the witness.

Each witness will be sworn by the register or receiver before his examination, and the testimony given, either upon questions propounded by either of those officers or by the parties or their agents, will be reduced to writing, signed by the witness, and duly certified by the officer administering the oath; and when the whole of the cases are closed the testimony relating to each, separately, will be forwarded to this Office. with your joint opinion thereon, and in giving that opinion you will state that it is based upon the sufficiency or insufficiency, as the case may be, of the evidence, as to the performance of the things prescribed by law in reference to the settlement, cultivation, and possession of the party, and to the other acts required of said claimant, and irrespective of the merits of any other conflicting claim, or without reference to the question whether said land is or is not subject to the particular law upon which the particular claim is founded.

It is not expected that the clerical duty of writing out the testimony shall be performed by you; that must be done at the expense of the party who introduces the witness, or in any other way or manner that can be agreed upon among the parties themselves. The law re-
231 quires them to furnish the proof, and never designed that for the fee of fifty cents each the land-officers should be put to the labor of writing out such proof, even in an ordinary case of pre-emption, much less in such cases as the present, where so much writing will, it is presumed, be required.

Respectfully, your obt. servt.,

JOHN WILSON,
Acting Commr. Ad Interim.

Letter from the Commissioner of the Genl. Land-Office to the register and receiver at Washington, Ark., dated Nov. 25th, 1851.

GENERAL LAND-OFFICE,
November 25, 1851.

REGISTER AND RECEIVER,
Washington, Arks.:

GENTLEMEN: The papers accompanying your letters of the 18th and 24th March last, in reference to the claims to the Hot Springs in Arkansas, having been submitted to the Secretary of the Interior for his action on the legal point in the case, to wit, the reservation of the land by Congress, they were returned to this Office for its decision on the respective merits of the pre-emption claims, irrespective of this question.

On the 26th August last this Office returned the papers with its decision adverse to the claims of the heirs of John Percifull, and in favor of that of the heirs of Ludovicus Belding, it agreeing

See letter to J C. Hale, 19 Sept. '53. N. V. C.

Hot Springs. John Percifull, heirs of. L. Belding heirs of.

with you both as to the establishment of the facts of cultivation in 1829, and possession on 29 May, 1830, and regarding the objections of the receiver, founded upon the opinion that those acts were performed as the tenant of another, as not affecting the validity of the claim.

On the 14th ult. this Office received the opinion and decision of the Secretary of the Interior, dated the 10th of that month, in which he sustains the existing validity of the act of 20th April, 1832, it not having been repealed or affected by any subsequent law, and that therefore none of the claims preferred for this land are of any legality.

On the said 14th ult. an application was made by the attorney of the heirs of Belding for permission to make an entry of said claim, "in order that they may be placed in a proper position for the assertion of their rights hereafter in the courts," stating that, of course, under the decision of the Secretary, they should not ask for a patent.

This was refused by this Office, and an appeal from that action taken to the Secretary of the Interior, who, on the 21st inst., addressed this Office a letter, a copy of which is herewith enclosed.

In accordance with the directions of the Secretary, therein contained, you are instructed to permit the "heirs of Ludovicus Belding" to make payment for the S. W. 4 sect. 33 T. 2 S., R. 19 W., as containing 160 acres, and, in addition to the ordinary entry thereof upon your books and the returns to this Office, you will note the fact of its interference with the New Madrid location of Langlois, of its embracing land directed to be reserved by act of 20th April, 1832, and that said entry is permitted under the Secretary's decision, of the 21st Nov., 1851. Similar annotations will be made on the receiver's receipt and the register's certificate.

Respectfully, your obt. servt.,

J. BUTTERFIELD,
Commissioner.

Letter of the Commissioner of the General Land-Office to the Secretary of the Interior, dated Nov. 27, 1855.

[Mis., vol. 1, p. 140 to 159.]

GENERAL LAND-OFFICE,
Nov. 27th, 1855.

Hon. R. MCCLELLAND,
Sec'y of Interior:

SIR: In your letter of the 8th ulto. I am requested—

1st. To examine and report upon the proof which Mr. H. M. Rector might file in support of his application for a patent to the Hot Springs, in the State of Arkansas, upon the location of New Madrid certificate No. 467; and,

2nd. To examine, "certain paper filed by Hon. F. P. Stanton in behalf of John C. Hale, claiming under Percifull, and to report my views in reference to the application now made," which is, that the case be revised and remanded to the district office, with a view to taking testimony therein and with a view to a decision thereon.

I have the honor to communicate that Mr. Rector has filed affidavits and depositions of several witnesses, the substance of which is reported herewith. These affidavits and depositions having been taken without notice to the other claimants of the Hot Springs, it is first to be con-

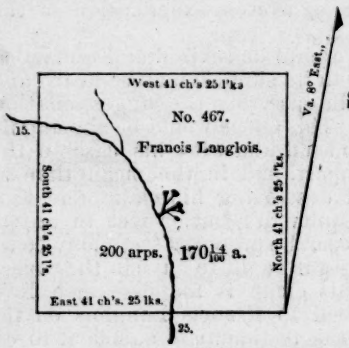
sidered whether they can be received and read in evidence in the case. If the controversy is between Mr. Rector and the United States only, then I see no objection to the evidence upon the ground that notice was not given, but if there are other parties now before the Department asserting interests adverse to the claim of Rector, whose claims would be defeated by its allowance, then, for the want of notice, the proposed evidence ought not to be received.

The pre-emption claim of Hale, under Percifull, and of Belding have been rejected, both by this Office and your Department, are no longer cases pending unless the subsequent action of the Department renders them such. After he had rejected Mr. Belding's claim, Mr. Secretary Stewart allowed him to make an entry of the property in controversy, that he might institute and prosecute action of ejectment thereon for it, under the statutes of the State of Arkansas. Upon the entry so allowed actions were commenced and are now pending in the courts of that State. If the Rector claim is allowed and a patent issued upon it, Belding's entry is by that act annulled; and although the allowance of the entry after the rejection of the claim may have been injudicious, yet I cannot think it would be right to defeat and annul it, and thus take the foundation from beneath Belding's ejectment suits, to the bringing of which the Department lent its countenance, upon evidence which he had no opportunity of testing by a cross-examination of the witnesses or to rebut by other testimony.

Mr. Hale asks that his claim under Perciful be revised and remanded to the district office, that the testimony in its support may be heard and considered. If this course be taken in the case, then the suggestions that I have made above will apply to it also. This Office would be abusing its discretion and trifling with Mr. Hale to send him with his case to the local office to take testimony for its support, and in the mean time to decide an adverse cause, defeating and destroying his claim, and that upon evidence which he had no opportunity to rebut or test in any of the modes known to the law. If, however, the proposed testimony be received, it is to be considered what weight it ought to have in the cause; upon which I have to suggest, that this claim is founded upon New Madrid certificate No. 467, issued to Francis Langlois on the
232 26th November, 1818, and that the testimony is sufficient to establish the right of the present claimant thereto by assignment and descent so far as assignment can be recognized. Until recently it seemed to have been understood in this Office that the claim to the two hundred arpens including the Hot Springs of Arkansas, under this certificate, was based upon its location thereon by a survey made in 1838; but now, under the proposed testimony, it is based entirely upon an application to the surveyor-general of Missouri, and a survey made under his discretion and order in the summer of 1820. Of such a proceeding there seemes to be no record, either in the office of the surveyor-general of Missouri or of Arkansas, nor in the office of the recorder of land-titles. In the latter the record would have been, if the requirements of the law had been observed. To supply the place of record evidence of the location, the affidavits and depositions of witnesses are produced. For such purpose the evidence ought to be free from difficulty and most satisfactory; in my judgment, it is not of that character. More than 30 years are allowed to pass before the claimant calls upon these witnesses for their testimony. Although until within two or three years the testimony of James S. Conway, the deputy surveyor, who is said to have made the survey in 1820, could have been obtained, yet no effort was made to procure it. His statement of the facts under oath would

have been much more satisfactory than the testimony of others who had no connexion with the claim or the survey, and the fact that it was not sought by the claimant is a circumstance greatly weakening his case so far as it is based upon that survey.

On the 27th January, 1819, S. Hammond and Elias Rector made application in writing to the surveyor-general of Illinois & Missouri, at St. Louis, for the "entry" of 200 arpens "to satisfy certificate No. 467, to be surveyed in a square tract," the lines to correspond with the cardinal points of the compass, and to include the Hot Springs, (so called,) upon the waters of the Ouachita River, south of the Arkansas; the said springs to be as near the centre of the square as circumstances will admit. The springs so to be included are those generally known as the largest and most resorted to upon that river. Mr. Rector claims that upon this application the surveyor-general issued an order to Jas. S. Conway, as deputy surveyor, to make a survey agreeing with the application; and that said Conway did make such survey and made return thereof to the survey' gen'l, by whom it was approved. With the depositions filed by Mr. Rector is a paper, shown to be in said Conway's handwriting, which, it is insisted, is one of the original plats and descriptions of the survey, as follows:



Survey No. 2903.

Certificate No. 467.

Surveyed for Francis Langlois, or his legal representatives, 200 arpens of land, located by virtue of a New Madrid certificate.

Beginning at a post from which a pine 10 inches in diameter (marked thus, H and R) bears S. 47° E. 8 links; thence south 7 ch's; a creek, 15 links wide, runs east, at 41 ch's 25 l'ks, set a post, from which a pine 15 inches in diameter bears N. 47½° E. 23 links; thence east 19 ch's 25 l'ks, to Hot Springs Creek, 25 l'ks wide, runs south, at 41 ch's 25 l'ks, set a post, from which a P. oak 10 inches in diameter bears S. 84° E. 6 links; thence north at 41 ch's 25 l'ks, set a post, from which a red oak 6 inches in diameter bears S. 62° W. 16 links; thence west 41 ch's & 25 links to the beginning.

July 16, 1820.

JAMES S. CONWAY,
D. Surveyor.

The evidence establishes this as an original paper, in the handwriting of Jas. S. Conway, but it is not satisfactoryily shown that this survey was made under the directions of the surveyor genl., or that it was reported to that officer, or by him approved. I think it was not so reported or approved. The records and files of the offices of the surveyor-genl. of Missouri and Arkansas wholly fail to show such action, or that the sup-

posed survey was made by virtue of orders issued from the Missouri office. It is sought to establish these facts by the depositions of Fred R. Conway, Wm. Milburn, & Robt. A. Colloway. To show how unreliable is the recollection of these gentlemen, it is only necessary to observe that Conway says he was a clerk in the office of the surveyor-genl. in 1820, and that he perfectly recollects to have seen Col. Elias Rector in the surveyor's office at the time he filed his application under the New Madrid law for the location of the Hot Springs; and that his brother, Jas. S. Conway, was then in the city of St. Louis, and agreed with Col. Rector to survey the location, and that an order of survey was then given him by Genl. Wm. Rector, surveyor-general, to survey the same, and that some days after, he thinks in a very few days, his brother left St. Louis with the order of survey, which he executed and returned. Instead of the application being made in 1820, and immediately prior to the survey, it is dated at "St. Louis, 27th January, 1819," 18 months before the survey was made. The witness says an order of survey was issued to the deputy; the records do not sustain him. He says duplicates were returned to the surveyor-general; here again the records and files do not sustain him, but contradict him in this, that they show that the duplicates were filed by the present claimant in the office at Little Rock, on the 18th June, 1850, and were not known as office papers prior to that time. (See the certificate of the chief clerk of that office accompanying the br'ef of the evidence.) William Milburn testifies confidently, but in very general terms; he say that Jas. S. Conway executed the survey, but fails to show how he knows the fact that Conway returned "triplicate copies of the survey;" but is not sustained by the records. (See the chief clerk's certificate, referred to above; also, the certificate of George Milburn, surveyor-genl. of Arkansas in July, 1854.) Robert A. Calloway says that he was a clerk in the Arkansas office in 1833 at the time the papers for that office were brought from the Missouri office, and he recollects to have seen the papers connected with a New Madrid claim and survey of the Hot Springs; that the celebrity and supposed value of the springs causes him to recollect the fact. He says he thinks the location was in the name of Hammond & Rector; from the survey he could not learn that the location was made by Hammond & Rector, nor that the Hot Springs were included, for the survey shows neither fact, but both would appear upon the application,
233 which was on file, which no doubt he saw. But the force of the testimony of these gentlemen, tending to show that the surveyor-genl. issued an order of survey; that the survey was made by Conway, and by him reported to the surveyor-genl., and by him approved, is greatly broken, if not overcome, by the following facts: 1st. That the survey was not made until 18 months after the application; 2d. That from the time the application was filed in January, 1819, until the present time, the records and files fail to show that the land-offices of Missouri and Arkansas took any action on, or assumed any cogn'zance of, the claim as based upon the survey of 1820; 3rd. That in 1837 directions were given by the land-office in Arkansas for the survey of the 200 arpens, according to the application of 1819, and in pursuance thereof survey No. 2903 was made by John C. Hale in February, 1838; 4th. That in April, 1838, the surveyor-genl. certified said survey to the recorder of land-titles as the location of certificate No. 467, "the survey of which had been examined and approved," upon which the recorder of land-titles, on the 16th June, 1838, issued a patent certificate under the 3d section of the act 17th February, 1815, and which the claimant' on the 22d June, 1838, forward' to this Office," "as the documents neces-

sary for the issuing of patents to the legal representatives," &c.; and 5th. By the very important fact, that the claimant, after having in 1838 made the survey of that year the basis of his claim to a patent, in 1850 sought to file duplicates of the survey of 1820, which were received by the surveyor-general, not as official, but as private papers.

But admitting the testimony, and allowing it the weight of record evidence, and that the survey of 1820 is thereby established as a returned and approved survey, the first question that arises is whether it be sufficiently certain to be made the foundation of a patent. In my judgment, it is not. The boundary-lines are not connected with any well-known and permanent monument. No "specific and identical tract of land" is described and separated from the public domain. The description might, and no doubt would, as well *to* apply to many other parcels of land as to the 200 arpens including the Hot Springs. To find the lines of this survey, we search for posts and trees in the midst of the wilderness. Upon such a description no conveyance can be made. If we refer to the application in aid of the survey, we still have a very unsatisfactory description of the land; that application requires the largest and most resorted to of the Hot Springs upon the waters of the Ouachita River, south of the Arkansas, to be as near the center of a square, including 200 arpens, "as circumstances will admit." Could a conveyance be based upon such a description? The number and general position of the Hot Springs, and their location with respect to each other, were not known, and could be ascertained only by an examination and survey; but the survey fails to make that certain which, in the application, was left uncertain. Failing in its purpose of giving place and identity to the claim, the survey is not a location; but the application and survey cannot be taken together for the purpose of gathering a description, for the reason that the survey does not refer to the application, or show that it was made in accordance therewith; nor that the Hot Springs are in the center of the square, or as near as circumstances will admit, or within the square at all. Nor can we refer to the survey of 1838 to correct the description, for the reason that it does not appear that the surveys are identical, and for the reason that the survey of 1838 has been rejected as a location.

Passing over the difficulties already suggested, an objection to the issue of a patent presents itself in the fact that no return of the survey has been made to the recorder of land-titles. If the only object of the return required by the 2d section of the act of 17th February, 1815, was that a record might be made of the survey as a public notice thereof, the absence of such return would not defeat the claim to a patent as between the Government and the claimant; but this requirement of the act has another and a more important purpose. In the first instance the claimant presents his proof to the recorder of land titles, who decides whether his case is provided for in the act of 1815, and if the claim is sustained he issues his certificate, which is located by the surveyor and returned to the recorder. The plat and description of the survey are recorded. The claimant then demands a patent-certificate. This certificate does not issue of course, but upon the judgment of the recorder that he is entitled to it. He decides, first, that the survey has been properly made; 2d. That the right quantity has been located; 3d. That the land is of the description to which the party is entitled under the act; and, 4th. That it has not been already located, and is not subject to another private claim. These questions are to be decided by the recorder, and upon his decision the right of the party to a patent depends. The claimant cannot refer this adjudication to the surveyor-general by causing

the return of the survey to be made to his office. The law does not authorize it, but requires the survey to undergo the examination of the recorder, and to his judgment submits whether it be valid as a location. In Lessieur et al. vs. Perce, 12 Howard, p. 73 & 74, the Supreme Court, in speaking of the proper practice under the act 17th Feb., 1815, says the warrant or location-certificate issued from the recorder's office, and there it was returnable; there the plat and certificate were returned and recorded; that office issued the patent-certificate; in that office the law required all official business to be transacted, and not in the surveyor's office. The plain meaning of the law is as above stated, nor can its import be changed by the practice pursued in the surveyor's office. There the claimant could not go for record evidence of his location, binding the United States for an exchange of lands; he could only refer to the recorder's office, and what was the character of the evidence he had to rely on there? This entry was to be made by the principal surveyor or under his directions. It was to consist of a plat of survey, and a certificate describing the land, with the name of the claimant for whom the location by survey was made.

This returned, the recorder had to examine, pass upon, and record, and if the location and survey had been properly made, then the United States assented to the exchange, and not until then.

The survey of 1820 never having been returned to the recorder, or passed upon by him, I think the claimant is not entitled to demand a patent upon it.

The 3d section of the act of 20 April, 1832, provides "that the Hot Springs in said Territory, together with four sections of land, including said springs, as near the centre thereof as may be, shall be reserved for the future disposal of the United States, and shall not be entered, located, or appropriated for any other purpose whatever." Assuming that it is the proper construction of this section that it prescribed a rule for the future, forbidding any entry, location, or appropriation of the Hot Springs thereafter, and did not attempt to annul and defeat any rights that may have been acquired under prior laws, yet it must be understood as expressing the judgment of Congress that the property had not been disposed of under any prior law, and that it then remained subject to the "future disposal of the United States." We ought to presume
234 that the legislators of that day availed themselves of all the information at their command, when, by their act, this property was reserved to the Government. The records of this Office informed them that it had not been reached by the public surveys, and could not have been disposed of under the general land-laws, and the reports and files and records of the recorder of land-titles informed them that it was not the subject of any private claim. When the judgment of Congress has been so clearly expressed and its will so emphatically declared, this Office ought not to reverse that judgment and disregard that will in a case so free of difficulties as the present. Allowing that it was not the intention of Congress to impair any legal claim, or to distrust any existing right, we must receive the 3d section of the act of 1832 as giving legislative construction to the act 17th February, 1815, to the effect that a proper survey must be reported to the recorder of land-claims and be by him approved before a valid claim as against the Government can exist to any particular portion of land.

I think the case made by Mr. Rector does not authorize the issue of a patent for the land claimed by him.

In relation to the application of John C. Hale, I have the honor to communicate that it is claimed that about the year 1810 one John

Percifull settled upon and cultivated a portion of the land including the Hot Springs of Arkansas; that he was so residing upon and cultivating the same at the time of the passage of the act 12th April, 1814, and continued thereon most of the time until his death; that, upon his death, he left Sarah, his widow, and David his only child and heir at law; and that about the year 1840 said Hale became the assignee or purchaser of an interest in the supposed right of said parties, growing out of said ancient settlement and cultivation, and in 1848 he became the assignee or purchaser of the whole of said supposed right for said David Percifull, and from the year 1840 until the present time said Hale has resided upon the quarter-section of land including said Hot Springs, and has made some improvement thereon.

I will not stop to inquire what, if any, rights said Hale could acquire by the attempted transfers of 1840 and 1848, or, on the other hand, how far the said transfer and the surrender of the possession to said Hale, and the entire abandonment thereof by said widow and heir of Percifull, would work a forfeiture of any rights that existed based upon the former occupancy and cultivation, but will only examine the present application, to the effect that the case be revised and remanded to the district land-office for investigation and decision. In 1851 the claim was before the district office, and, after notice to all the parties, at the time appointed was taken up, and all the testimony produced by Hale was heard; but he insisted that he had other witnesses whose testimony was important, and whose attendance he could not then procure, and asked time to secure their attendance. The district officers then proceeded to the hearing of the Belding claim to the same property; and whilst that was pending, and before a decision of any of the cases, Mr. Hale produced two witnesses, Adam Stroud and Jester Cox, and demanded that their testimony should be heard and considered in support of his claim, but the application was rejected solely upon the ground that the examination of that case had been closed. In 1853 Mr. Hale instituted proceedings in the courts of the State of Arkansas to perpetuate the testimony in support of his claim, in which proceedings the depositions of the said Adam Stroud and of James Neel and Thomas Woodward were taken, and are on file, by which it is satisfactorally established that as early as 1810 the said John Percifull was living with his wife, Sarah, "in one or two huts or small houses," about from 40 to 60 steps from the springs, and cultivated "a garden or truck-patch," about 270 yards from the springs, and were still residing there in 1814 and 1816, but had added nothing to the improvements. He kept some boarders and entertained them who stopped at his house. No other person had a permanent residence on the land including the Hot Springs. A number of years after, he removed to Red River, but not beyond the Territory, (as witness believes,) and "remained a short time and then returned to the springs."

Waiving the objection that the party did not show that he had used due diligence to procure his testimony at the time set for the trial of his cause, and did not show to the land-officers its materiality, I think his application for a new trial ought to be disallowed, for the reason that if all that he hopes to prove be admitted his claim cannot be sustained under this law.

The 5th section of the act 12th April, 1814, gives to "every person who has actually inhabited and cultivated a tract of land lying in the Territory of Missouri, not rightfully claimed by any other person, and who shall not have removed from said Territory, the right of pre-emption in the purchase thereof," "under the same restrictions, conditions,

provisions, and regulations, in every respect, as is directed" by the pre-emption act of February 5, 1813. (See Statutes at Large, vol. 3, p. 122, and vol. 2, p. 797 and 798.) At the time the settlement and improvements were made by Percifull, and at the date of the pre-emption act of 1814, the land claimed was in the possession of Quapaw Indians, and was "rightfully claimed by them," and, as the Hon. F. P. Stanton in his argument concedes, was not subject to a pre-emption claim. The act of 5th February, 1813, required claimant to file with the register a notice "making known his claim." This was not done until after the passage of the act of 1832, reserving this land to the United States. If after the Quapaw cession of 1818, and prior to the reservation in 1832, Mr. Percifull had filed and prosecuted his claim, the objection to it upon the ground that the land had been "rightfully claimed" by the Indians would not have existed; but in its stead would have risen another objection fatal to the claim, which was not removed until 1838. I refer to the fact that the land claimed was not included within the public surveys, and was not so included until 1838, and that under the pre-emption laws of 1813 and 1814 a settlement and pre-emption could be made upon surveyed lands only. The 2d section of the act 5th February, 1813, provides "that every person claiming a preference in becoming a purchaser of a tract of land in virtue of this act, shall make known his claim, by delivering a notice in writing, to the register of the land-office for the district in which the land may lie, wherein he shall particularly designate the quarter-section he claims." "Quarter-section" is a technical description of a tract of land of 160 acres, according to the public surveys. Chief-Justice Taney, in an opinion given as Attorney-General, August 30, 1833, says: "The words 'quarter-section of lands' are, I believe, never used in any of the acts of Congress to denote merely the quantity of 160 acres of land; but are always intended to describe a parcel of land, containing 160 acres, which has been set apart and designated by the proper officer of the Government as a quarter-section according to the act of Congress prescribing the mode of surveying and dividing the public lands." The right given in the 1st section of the act must be described by the claimant as to a quarter section under the provisions of the 2d section, and how could he do this when the surveys had created no such division? Until the public surveys had extended to the land claimed, there was no "quarter-section"
235 including the Hot Springs which John Percifull could claim and describe. The land was there, but no portion of it had the description of section or quarter-section. Prior to 1838, (when the surveys of that section of country were made,) the settlement, improvement, and claim of John Percifull were made without any authority of law; in the mean time the Hot Springs, together with 4 sections of land including them, were reserved for the future disposal of Congress.

The claimant is not relieved by the act 1st March, 1843, for the reason that, as this Office has heretofore properly held, it "embraces those cases only where the question in relation to the Indian title was the only difficulty," and for the further reason, as this Office has also held, that it did not operate as a repeal of the 3d section of the act 20th April, 1832, by which the property is reserved to the United States. A subsequent statute not repealing a former statute in express terms, is not held to repeal it by implication, unless the provisions are so inconsistent that both cannot stand. The 3d section of the act of 1832 and the 3d section of the act of 1843 do not conflict, and may both stand. The former has a clearly expressed and limited purpose, which is to reserve the land described for "the future disposal of the United

States;" the object of the latter is general, and is to give the same benefits of pre-emption to the settlers south of the Arkansas River that were enjoyed by the settlers north of that river under the act of 1814. No intention on the part of Congress appears to dispose of the Hot Springs, or to legalize settlements expressly forbidden, but to give relief to the settlers generally south of the Arkansas River. The case of the U. S. vs. Gear, III Howard, p. 120, is in point. On the 3d March, 1807, an act was passed by the 5th section of which it was enacted "that the several lead mines in the Indian Territory, together with as many sections contiguous to each as shall be deemed necessary by the President of the U. S., shall be reserved for the future disposal of the United States." On the 26th June, 1834, an act was passed to "create additional land districts, &c," in the 4th section of which it was enacted "that the President shall be authorized, as soon as the survey shall have been completed, to cause to be offered for sale, in the manner prescribed by law, all the land lying in said districts, reserving only sections 16 in each township, the tract reserved for the village of Galena, such other tracts as have been granted to individuals and the State of Illinois, and such reservations as the President shall deem necessary for military posts, any law of Congress heretofore existing to the contrary notwithstanding." The terms of the latter act were general and might be made to include the lead-lands reserved for future disposal in the act of 1807. But the Supreme Court held that the acts did not interfere, but both should stand. The court says, page 131, "In truth the act' of 1834 and 1807 do not present a case of conflict in the sense in which statutes do, when, from some expression in a later act, it may seem that something was intended to be excepted from the force of the former, or to operate as a partial repeal of it. The rule is that a perpetual statute, (which all statutes are, unless limited to a particular time,) until repealed by an act proposing to repeal it, or by a clause or section of another act directly bearing in terms upon the particular matter of the first act, notwithstanding an implication to the contrary may be raised by a general law which embraces the subject-matter, is considered still to be the law in force as to the particulars of the subject-matter legislated upon."

Thus, in this case, all lands within the district mean lands in which there are and in which there are not minerals or lead-mines; but a power to sell all lands given in a law subsequent to another law expressly reserving lead-mine lands from sale cannot be said to be a power to sell the reserved lands where they are not named, or to repeal the reservation. In this case there are two acts before us in no way connected, except in both being parts of the public-land system.

"Both can be acted upon without any interference of the provisions of the last with those of the first, each performing its distinct functions within the sphere as Congress designed they should do."

As Mr. Hale's claim could not be allowed even if the evidences which he proposes to introduce were before the Office, I cannot recommend that his application be granted.

I am, with great respect, your obt. s'v't,

THOS. A. HENDRICKS,
Commissioner.

Letter of the Commissioner of the Gen'l Land-Office to the Secretary of the Interior, dated Dec. 5, 1855.

[Mis. vol. 1, p. 188.]

GENERAL LAND-OFFICE,
December 5, 1855.

Hon. R. MCCLELLAND,
Sec. of Interior:

SIR: Since making my communication of the 27th ult'o, relative to the Rector & Hale claims to the Hot Springs of Arkansas, I have re-examined the pre-emption laws of 5th February, 1813, and 12th April, 1814, as amended by the act of 29 April, 1816, and desire to add to that communication that I find that in the administration of these laws this Office has uniformly held that the words "every person who has actually inhabited and cultivated a tract of land," restrict the right to cases of settlement and cultivation made prior to continuing at the date of the act; that the acts are not prospective, so as to secure the pre-emption privilege to persons making settlement and cultivation after their passage, and that they extend to unsurveyed as well as to surveyed lands.

As an original question, for the reason heretofore given, I could not sustain this construction, although the language of the act may justify it.

Unwilling to depart from a pre-existing decision sanctioned by practice, I desire this as amendatory of my previous report in the particulars in question, whilst at the same time I must add, that as the tract was Indian lands at the passage of the pre-emption act of 1814, it follows that the decision alluded to excludes the lands from the operation of that law.

I am, with great respect, your ob't s'v't,

THOS. A. HENDRICKS,
Commissioner.

TESTIMONY TAKEN SINCE FILING PETITION IN COURT OF CLAIMS.

The deposition of Samuel Bernstein, for claimant, taken at Grant Parish, Louisiana, on the 6th day of July, A. D. 1874.

JOHN C. HALE
vs.
UNITED STATES } No. 6203.

Before me, J. Orsbon, United States commissioner in and for the
236 district of Louisiana, in the parish of Grant, State of Louisiana, on this the sixth day of July, A. D. 1874, personally came Samuel Bernstein, a witness in behalf of the claimant in the above entitled and numbered claim, who, upon being duly sworn, states:

Interrogatory 1. Please state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and what *and what* degree, you are related to the claimant.

Answer. My name is Samuel Bernstein. I am fifty years of age. I am a planter. My residence is at Montgomery, Grant Parish, Louisiana. I have no interest in this claim. I am in way related to General Thomas S. Woodward or Thomas Woodward.

Interrogatory 2. Are you acquainted with John C. Hale, and were you acquainted, in his life-time, with the late General Thomas S. Woodward?

Answer. I am not acquainted with John C. Hale, claimant. I was acquainted with General T. S. Woodward and his son, Thomas Woodward.

Interrogatory 3. How long did you know General Thomas S. Woodward? Were you intimately acquainted with him, or otherwise? When did he die, and where did he die? During his life-time where was his principal place of residence? What was his business and occupation?

Answer. I was acquainted with General Thomas S. Woodward intimately since 1855, and his son, Thomas Woodward, since about 1858. General T. S. Woodward and his son were both planters. General T. S. Woodward died at his residence in Winn Parish, February, 1860. His business and occupation was that of a planter. General T. S. Woodward was the old man, and had a son by the name of Thomas Woodward, who died about the same place in July, A. D. 1862, who was also a planter.

Interrogatory 4. Did General T. S. Woodward have any children? Did he not have a son by the name of Thomas Woodward? Where and when did he die, and where did he reside before his death?

Answer. General T. S. Woodward left one, Thomas Woodward. He died in Winn Parish in the year A. D. 1862, and left no issue before his death. He came from Camden, Arkansas; also, his father came from the same place.

Interrogatory 5. Did the said General Thomas S. Woodward and his son, Thomas Woodward, ever reside in any place but Louisiana? If yea, state the place of his residence; also, when he removed to this State.

Answer. General Thomas S. Woodward came from Camden, Ark., to Louisiana in A. D. 1854; and his son, Thomas Woodward, came from Camden, Ark., to Louisiana, in 1858 or 1859. Both *and* resided in Camden, Ark., and moved to Louisiana, as above stated, and there died.

Interrogatory 6. Did you ever know of any other persons by the name of General T. S. Woodward and Thomas Woodward, and that no other persons ever resided of that name in Camden, Ark., and Louisiana; and that the father and son, General T. S. Woodward and Thomas Woodward, came from Camden, Ark., to Louisiana, at that time Winn Parish?

Answer. I did not know of any persons by the name of General T. S. Woodward and his son that was kin to them but these Woodwards mentioned, who resided in Camden, Ark., or Louisiana; and that the family of Woodwards mentioned came from Arkansas to Louisiana, in Winn Parish.

Interrogatory 7. Did you ever hear General Thomas S. Woodward say that he gave deposition in Hot Springs case, in the State of Arkansas, wherein John C. Hale and William H. Gaines, or Belden's heirs, and Henry M. Rector were parties to the suit, and claiming the Hot Springs?

Answer. I did not hear General T. S. Woodward or his son, Thomas Woodward, say they ever gave any evidence in any case or suit claiming as owning any interest in the Hot Springs, or in the case mentioned in interrogatory No. 7.

Interrogatory 8. State all the conversation you had with General Thomas S. Woodward touching the interest of claim of John C. Hale, claimant, and all you know of your own knowledge relative thereto.

Answer. I did not have any conversation with General Thomas S. Woodward, or his son, Thomas Woodward, touching the interest of John

C. Hale, claimant; and I know nothing of my own knowledge about any interest of the claimant, Hale, or of his ownership to the Hot Springs in Arkansas, relative thereof.

Interrogatory 9. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know of nothing more than I have stated, except that General T. S. Woodward's stomach and heart was sent to me as taken out of his body, and I kept it two or three days, and then gave it to Dr. T. O. Harrison or Dr. J. McCockerhur.

S. BERNSTEIN.

Sworn to and subscribed before me this the 6th day of July, A. D. 1874.

[SEAL.] J. ORSBORN,
U. S. Commissioner of District of State of Louisiana.

Witness to S. Bernstein and Samuel Marks's signatures:
PH. BERNSTEIN.
SAM. MARKS.

The deposition of C. W. Fittz, for claimant, taken at Grand Parish, Louisiana, on the 7th day of July, A. D. 1874.

UNITED STATES } No. 6203.
vs.
JOHN C. HALE.

Before me, J. Orsborn, United States commissioner in and for the district of Louisiana, in the parish of Grant, State of Louisiana, on this the 7th day of July, A. D. 1874, personally came CHARLES W. FITTZ, a witness in behalf of the claimant in the above entitled and numbered claim, who, upon being duly sworn, states:

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

237 Answer. My name is Charles W. Fittz; my occupation is a planter; my age is over forty years; my place of residence for the last year is in Grant Parish, Louisiania—formerly Winn Parish. I have no interest in the claim, and am in no way related to the claimant.

Interrogatory 2. Are you acquainted with John C. Hale, and were you acquainted in his life-time with the late General Thomas S. Woodward?

Answer. I have visited the Hot Springs in Arkansas. I am acquainted with the Hale family, claiming the Hot Springs. I was well acquainted with the late General Thomas S. Woodward.

Interrogatory 3. How long did you know General Thomas S. Woodward? Were you intimately acquainted with him, or otherwise? When did he die, and where did he die? During his life-time where was his place of residence? What was his business and occupation?

Answer. I was acquainted with General T. S. Woodward from the year 1846 up to his death, in 1860. I was intimately acquainted with General T. S. Woodward. He died in Winn Parish, February, 1860. During his life-time his principal place of residence was in Alabama, Arkansas, and, lastly, Louisiana, and was all of his latter life-time a planter.

Interrogatory 2. Are you acquainted with John C. Hale, and were you acquainted, in his life-time, with the late General Thomas S. Woodward?

Answer. I am not acquainted with John C. Hale, claimant. I was acquainted with General T. S. Woodward and his son, Thomas Woodward.

Interrogatory 3. How long did you know General Thomas S. Woodward? Were you intimately acquainted with him, or otherwise? When did he die, and where did he die? During his life-time where was his principal place of residence? What was his business and occupation?

Answer. I was acquainted with General Thomas S. Woodward intimately since 1855, and his son, Thomas Woodward, since about 1858. General T. S. Woodward and his son were both planters. General T. S. Woodward died at his residence in Winn Parish, February, 1860. His business and occupation was that of a planter. General T. S. Woodward was the old man, and had a son by the name of Thomas Woodward, who died about the same place in July, A. D. 1862, who was also a planter.

Interrogatory 4. Did General T. S. Woodward have any children? Did he not have a son by the name of Thomas Woodward? Where and when did he die, and where did he reside before his death?

Answer. General T. S. Woodward left one, Thomas Woodward. He died in Winn Parish in the year A. D. 1862, and left no issue before his death. He came from Camden, Arkansas; also, his father came from the same place.

Interrogatory 5. Did the said General Thomas S. Woodward and his son, Thomas Woodward, ever reside in any place but Louisiana? If yea, state the place of his residence; also, when he removed to this State.

Answer. General Thomas S. Woodward came from Camden, Ark., to Louisiana in A. D. 1854; and his son, Thomas Woodward, came from Camden, Ark., to Louisiana, in 1858 or 1859. Both *and* resided in Camden, Ark., and moved to Louisiana, as above stated, and there died.

Interrogatory 6. Did you ever know of any other persons by the name of General T. S. Woodward and Thomas Woodward, and that no other persons ever resided of that name in Camden, Ark., and Louisiana; and that the father and son, General T. S. Woodward and Thomas Woodward, came from Camden, Ark., to Louisiana, at that time Winn Parish?

Answer. I did not know of any persons by the name of General T. S. Woodward and his son that was kin to them but these Woodwards mentioned, who resided in Camden, Ark., or Louisiana; and that the family of Woodwards mentioned came from Arkansas to Louisiana, in Winn Parish.

Interrogatory 7. Did you ever hear General Thomas S. Woodward say that he gave deposition in Hot Springs case, in the State of Arkansas, wherein John C. Hale and William H. Gaines, or Belden's heirs, and Henry M. Rector were parties to the suit, and claiming the Hot Springs?

Answer. I did not hear General T. S. Woodward or his son, Thomas Woodward, say they ever gave any evidence in any case or suit claiming as owning any interest in the Hot Springs, or in the case mentioned in interrogatory No. 7.

Interrogatory 8. State all the conversation you had with General Thomas S. Woodward touching the interest of claim of John C. Hale, claimant, and all you know of your own knowledge relative thereto.

Answer. I did not have any conversation with General Thomas S. Woodward, or his son, Thomas Woodward, touching the interest of John

C. Hale, claimant; and I know nothing of my own knowledge about any interest of the claimant, Hale, or of his ownership to the Hot Springs in Arkansas, relative thereof.

Interrogatory 9. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know of nothing more than I have stated, except that General T. S. Woodward's stomach and heart was sent to me as taken out of his body, and I kept it two or three days, and then gave it to Dr. T. O. Harrison or Dr. J. McCockerhur.

S. BERNSTEIN.

Sworn to and subscribed before me this the 6th day of July, A. D. 1874.

[SEAL.] J. ORSBORN,
U. S. Commissioner of District of State of Louisiana.

Witness to S. Bernstein and Samuel Marks's signatures:
PH. BERNSTEIN.
SAM. MARKS.

The deposition of C. W. Fittz, for claimant, taken at Grand Parish, Louisiana, on the 7th day of July, A. D. 1874.

UNITED STATES *vs.* JOHN C. HALE. } No. 6203.

Before me, J. Orsborn, United States commissioner in and for the district of Louisiana, in the parish of Grant, State of Louisiana, on this the 7th day of July, A. D. 1874, personally came CHARLES W. FITTZ, a witness in behalf of the claimant in the above entitled and numbered claim, who, upon being duly sworn, states:

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

237 Answer. My name is Charles W. Fittz; my occupation is a planter; my age is over forty years; my place of residence for the last year is in Grant Parish, Louisiania—formerly Winn Parish. I have no interest in the claim, and am in no way related to the claimant.

Interrogatory 2. Are you acquainted with John C. Hale, and were you acquainted in his life-time with the late General Thomas S. Woodward?

Answer. I have visited the Hot Springs in Arkansas. I am acquainted with the Hale family, claiming the Hot Springs. I was well acquainted with the late General Thomas S. Woodward.

Interrogatory 3. How long did you know General Thomas S. Woodward? Were you intimately acquainted with him, or otherwise? When did he die, and where did he die? During his life-time where was his place of residence? What was his business and occupation?

Answer. I was acquainted with General T. S. Woodward from the year 1846 up to his death, in 1860. I was intimately acquainted with General T. S. Woodward. He died in Winn Parish, February, 1860. During his life-time his principal place of residence was in Alabama, Arkansas, and, lastly, Louisiana, and was all of his latter life-time a planter.

Interrogatory 4. Did General S. T. Woodward have any children? Did he not have a son by the name of Thomas Woodward? Where and when did he die, and where did he reside before his death?

Answer. He had three children; a son by the name of Thomas Woodward. He died in Winn Parish, where he resided up to his death. General T. S. Woodward and all of his children are dead.

Interrogatory 5. Did the said General Thomas S. Woodward and his son, Thomas Woodward, ever reside in any place except Louisiana? If yea, state the place of his residence; also, when he removed to this State.

Answer. He did reside in other States before moving to Louisiana. General T. S. Woodward and his son, Thomas Woodward, resided at Camden, Ark., up to the removal of Thomas Woodward to this State. General T. S. Woodward moved to this State in the spring of 1854. At the same time Thomas Woodward, his son, moved to Hot Springs County, Arkansas.

Interrogatory 6. Did you ever know of any other persons by the name of General T. S. Woodward and Thomas Woodward, and that no other persons ever resided, of that name, in Camden, Ark., and Louisiana; and that the father and son, General Thomas S. Woodward and Thomas Woodward, came from Camden, Ark., to Louisiana, at that time Winn Parish?

Answer. I did not know of any other persons by the name of General Thomas S. Woodward and his son, Thomas Woodward, ever resided in any place but Camden, Ark., or Louisiana, or did I ever know any other family by this name but the persons of that name above alluded to. They both came to Winn Parish at the dates above stated.

Interrogatory 7. Did you ever hear General Thomas S. Woodward say that he gave deposition in Hot Springs case in the State of Arkansas, wherein John C. Hale and Wm. H. Gains, or Belden's heirs, and Henry M. Rector were parties to the suit and claiming the Hot Springs?

Answer. I cannot say that I ever heard General T. S. Woodward say that he gave deposition in any case, but I did often hear him say that the Hales had the best title to the Hot Springs in Arkansas.

Interrogatory 8. State all the conversation you had with General T. S. Woodward touching the interest of the claim of John C. Hale, claimant, and all you know relative thereof.

Answer. I have already stated in my answer to the seventh interrogatory that I frequently heard both General T. S. Woodward, and his son, Thomas Woodward, say that Hales had the best title to the Hot Springs in Arkansas.

Interrogatory 9. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not know of any other matter relative to the claim in question, except General Woodward said the other contestants had the most money, and thereby would cause Hale to lose his title to the Hot Springs, in Arkansas, but that Hale had the legal title to the said springs and justly the said springs belonged to Hale. General T. S. Woodward, by his own request, had his stomach and heart taken from his body to, and are now preserved in the office of Dr. Thomas O. Harrison.

C. W. FITTZ.

Witnesses:
J. ORSBORN.
HENRY CAMIL.

Sworn and subscribed before me on this 7th day of July, A. D. 1874.

J. ORSBORN,
United States Commissioner
of the District of State of Louisiana.

The deposition of John Frazir, for claimant, taken at Grant Parish, Louisiana, on the 7th day of July, A. D. 1871.

JOHN C. HALE
vs.
UNITED STATES. } No. 6203.

Before me, J. Orsbon, United States commissioner in and for the district of Louisiana, in the parish of Grant and State of Louisiana, on this the seventh day of July, A. D. 1874, personally came JOHN FRAZIR, a witness in behalf the claimant in the above entitled and numbered claim, who, upon being duly sworn, states:

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is John Frazir, and am over sixty years of age. I am a planter. I reside in Grant Parish, and have no interest in this claim, and I am in no way related to claimant, Hale, or the Woodwards.

Interrogatory 2. Are you acquainted with John C. Hale; and were you acquainted, in his life-time, with the late General Thomas S. Woodward?

Answer. I am not acquainted with John C. Hale, but was well acquainted with the late General Thomas S. Woodward.

Interrogatory 3. How long did you know General Thomas S. Woodward? Were you intimately acquainted with him, or otherwise?
238 When did he die, and where did he die? During his life-time where was his principal place of residence? What was his business and occupation?

Answer. I knew him six years subsequent to his death, and I was intimately acquainted with him. He died in Winn Parish, in the year 1860. My only acquaintance with him was in Winn Parish. His occupation was a planter.

Interrogatory 4. Did General Thomas S. Woodward have any children? Did he not have a son by the name of Thomas Woodward? When and where did he die, and where did he reside before his death?

Answer. He had one son by the name of Thomas Woodward. The son died in Winn Parish in 1862.

Interrogatory 5. Did the said General Thomas S. Woodward and his son, Thomas Woodward, ever reside in any place but Louisiana? If yea, state the place of his residence; also, when he removed to this State.

Answer. He stated to me that he lived at Camden, Ark., and that his son lived in Hot Springs County, Arkansas. He came to this State and parish in the year 1858.

Interrogatory 6. Did you ever know of any other persons by the names of General Thomas S. Woodward and Thomas Woodward, and that no other persons ever resided of that name in Camden, Ark., and Louisiana, and that the father and son, Gen. Thomas S. Woodward and Thomas Woodward, came from Camden, Ark., to Louisiana—at that time Winn Parish?

Answer. I never knew of any other parties of this name.

Interrogatory 7. Did you ever hear Gen. Thomas S. Woodward say that he gave deposition in the Hot Spring case, in the State of Arkansas, wherein John C. Hale and Wm. H. Gains, or Belden's heirs, and Henry M. Rector were parties to the suit and claiming the Hot Springs?

Answer. I never heard him mention anything relative to the Hot Spring case?

Interrogatory 8. State all the conversation you had with Gen. Thomas S. Woodward touching the interest of claim of John C. Hale, claimant, and all you know of your own knowledge relative thereof.

Answer. I know nothing.

Interrogatory 9. Do you know of any other matter relative to the claims in question? If you do, state it.

Answer. None.

JOHN FRAZIR.

Witnesses:
J. W. COCKERHORN.
C. W. FITTZ.

Sworn to and subscribed before me on this the seventh day of July, A. D. 1874.

J. ORSBORN,
United States Commissioner of the District of State of Louisiana.

The deposition of J. W. Cockerham, for claimant, taken at Grant Parish, Louisiana, on the 7th day of July, A. D. 1874.

JOHN C. HALE *vs.* UNITED STATES. } No. 6203.

Before me, J. Orsborn, United States commissioner in and for the district of Louisiana, in the parish of Grant, State of Louisiana, on this the seventh day of July, A. D. 1874, personally came Dr. J. W. COCKERHAM, a witness in behalf of the claimant in the above entitled and numbered claim, who, upon being duly sworn, states:

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim *in the claim* which is the subject of inquiry, and whether, and in what degree, you are related to the claimant.

Answer. My name is J. W. Cockerham; occupation is a physician; age, thirty-seven years; place of residence, Grant Parish, Louisiana; have no interest in the subject of inquiry. I am in no way related to claimant.

Interrogatory 2. Are you acquainted with John C. Hale, and were you acquainted in life-time with *with* the late General Thomas S. Woodward?

Answer. I was not acquainted with John C. Hale. I was acquainted with Gen. T. S. Woodward during his life-time.

Interrogatory 3. How long did you know Gen. T. S. Woodward? Were you intimately acquainted with him or otherwise? When did he die, and where did he die? During his life-time where was his principal place of residence? What was his business and occupation?

Answer. I knew Gen. T. S. Woodward about four years. I was intimately acquainted with him. He died about February, 1860. He died

at the residence of his son. I made the post-mortem examination. Took his heart and *and* stomach, and preserved them in Winn Parish, Louisiana. When I knew him his residence was in Winn Parish, Louisiana. His business and occupation was that of a planter.

Interrogatory 4. Did Gen. T. S. Woodward have any children? Did he not have a son by the name of Thomas Woodword? Where and when did he die, and where did he reside before his death?

Answer. Gen. T. S. Woodward had one son. His son's name was Thomas Woodward. He died in 1862. He lived and died in Union Parish, Louisiana.

Interrogatory 5. Did the said Gen. Thomas S. Woodward and his son, Thomas Woodward, ever reside in any place but Louisiana? If yea, state the place of his residence, also when he removed to this State.

Answer. I have heard Gen. T. S. Woodward and his son, Thomas Woodward, and many other people say that they lived in Arkansas before moving to this State. Gen. T. S. Woodward moved to Louisiana about 1854; his son, Thomas Woodward, moved to Louisiana about 1858.

Interrogatory 6. Did you ever know of any other persons by the name of Gen. T. S. Woodward and Thomas Woodward; and that no other persons ever resided of that name in Camden, Ark., and Louisiana; and that the father and son, Gen. T. S. Woodward and Thomas Woodward, came from Camden, Ark., to Louisiana—at that time Winn Parish?

Answer. I think that no other persons by the name of Gen. T. S. Woodward and Thomas Woodward ever lived in Winn Parish, Louisiana.

Interrogatory 7. Did you ever hear Gen. T. S. Woodward say that he gave deposition in the Hot Springs case, in the State of Arkansas, wherein John C. Hale and William H. Gains, or Belden's heirs, and Henry M. Rector were parties to the suit, and claiming the Hot Springs?

Answer. I never heard him say anything about his suit.

Interrogatory 8. State all the conversation you had with Gen.
239 T. S. Woodward touching the interest of claim of John C. Hale, claimant, and all you know of your own knowledge relative thereof.

Answer. I know nothing and cannot answer.

Interrogatory 9. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

J. W. COCKERHAM.

Witnesses:
C. W. FITTZ.
JOHN FRAZIER.

Sworn to and subscribed before me on this the 7th day of July, A. D. 1874.

J. ORSBORN,
United States Commissioner of the District of State of Louisiana.

The deposition of Alfred Shelby, for claimant, taken at Grant Parish, Louisiana, on the 9th day of July, 1874.

JOHN C. HALE
vs.
UNITED STATES.

Before me, J. Orsborn, United States commissioner in and for the

district of Louisiana, in the parish of Grant, State of Louisiana, on this the 9th day of July, A. D. 1874, personally came ALFRED SHELBY, a witness in behalf of the claimant in the above entitled and numbered claim, who, upon being duly sworn, states:

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry, and whether, and in what degree, you are related to the claimant.

Answer. Alfred Shelby is my name. I am a mechanic, and have been sheriff of Grant Parish. I am over 50 years of age. I reside at Colfax, Grant Parish, Louisiana. Have no interest in this claim, and am no way related to claimant or Woodward.

Interrogatory 2. Are you acquainted with John C. Hale, and were you acquainted, in his life-time, with the late Gen. T. S. Woodward?

Answer. I am not acquainted with John C. Hale. I was acquainted with Gen. Thomas S. Woodward at Camden, Ark.

Interrogatory 3. How long did you know Gen. T. S. Woodward? Were you intimately acquainted with him, or otherwise? When did he die, and where did he die? During his life-time where was his principal place of residence? What was his business and occupation?

Answer. I was acquainted with Gen. T. S. Woodward. I knew Gen. T. S. Woodward since 1854 or 1855; cannot say when he died. I knew Gen. T. S. Woodward at Camden, Ark., or near that place, in 1854 or 1855. From all information, Gen. T. S. Woodward resided in Arkansas and Louisiana up to his death.

Interrogatory 4. Did Gen. T. S. Woodward have any children? Did he not have a son by the name of Thomas Woodward? When and where did he die; and where did he reside before his death?

Answer. I knew he had a son by the name of Thomas Woodward. I cannot say when nor where he died.

Interrogatory 5. Did the said General T. S. Woodward and his son, Thomas Woodward, ever reside in any place but Louisiana? If yea, state the place of his residence; also, when he removed to this State.

Answer. General T. S. Woodward resided in Camden, Ark. I believe he also resided in Louisiana. I cannot say when he came to this State, but am satisfied these are the same Woodwards that resided at Camden, Ark.

Interrogatory 6. Did you ever know of any other persons by the name of General T. S. Woodward and Thomas Woodward, and that no other persons ever resided of that name in Camden, Ark., and Louisiana, and that the father and son, General T. S. Woodward and Thomas Woodward, came from Camden, Ark., to Louisiana—at that time Winn Parish?

Answer. I never knew of any other persons by the name of these Woodwards to reside in Camden, Ark., and Louisiana. I believe the said Woodwards came to Louisiana from Arkansas.

Interrogatory 7. Did you ever hear General T. S. Woodward say that he gave deposition in the Hot Springs case, in the State of Arkansas, wherein John C. Hale and William H. Gains, or Beldend heirs, and Henry M. Rector were parties to the suit, and claiming the Hot Springs?

Answer. I never heard General T. S. Woodward say that he gave deposition in any case.

Interrogatory 8. State all the conversation you had with General T. S. Woodward touching the interest of claim of John C. Hale, claimant, and all you know of your own knowledge relative thereof.

Answer. I know nothing about any conversation about any claim.

Interrogatory 9. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

ALFRED SHELBY.

Witness:
L. C. CURRY.
PH. BERNSTEIN.

Sworn to and subscribed before me on this the 9th day of July, A. D. 1874.

J. ORSBORN,
United States Commissioner of the District of State of Louisiana.

The United States commissioner's court, having finished taking the evidence on the 9th day of July, A. D. 1874, of the above and foregoing witnesses, as written above, closed, no more witnesses being present to give their testimony.

Done and signed on this the 9th day of July, A. D. 1874.

J. ORSBORN,
United States Commissioner, &c., District of Louisiana.

PARISH OF GRANT, STATE OF LOUISIANA,
June 9th, A. D. 1874.

I hereby certify that the foregoing thirty pages of testimony of the witnesses Samuel Bernstein, Charles W. Fittz, John Frazier, Dr. J. W. Cockerhan, and Alfred Shelby were taken by me or in my presence at the time, place, and in the manner before named, including the first four pages, caption, and interrogatories.

Witness my hand and seal this the 9th day of July, A. D. 1874.

J. ORSBORN,
United States Commissioner, &c., of District of Louisiana.

240 *Deposition of Ira T. Grant for claimant, taken at Hot Springs, Ark., on the 28th day of August, A. D.* 1873.

First general interrogatory by the judge. Please state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Ira Thomas Grant. My occupation is that of a farmer. I am seventy-three years of age. My place of residence during the last year has been in Hot Spring County, until the county of Garland was formed; since then in the latter county. I have no interest, direct or indirect, in the claim which is the subject of inquiry. I am not related to John C. Hale.

Being interrogated by counsel for John C. Hale, the witness says:

Question. Were you acquainted with Thomas Holdman? How long were you acquainted with him? Where did he reside? Is he dead or alive? If dead, how do you know that fact?

(Objected to by the solicitor for the United States as being irrelevant and immaterial to the issues in this cause.)

Answer. I was acquainted with Thomas Holdman. I was acquainted with him from 1827 until the day of his death. He resided in Hot Spring County, Arkansas. He is now dead. I stood by his bedside and saw him die, and I assisted in making his coffin and helped to bury him.

Question. Are you reasonably well acquainted with the people of

Hot Spring County? Around Hot Springs, did you know of any other person named Thomas Holdman, except the individual named, in said county?

Answer. I am reasonably well acquainted with the people of Hot Spring County, around Hot Springs, now in Garland County. I did not know of any other person named Thomas Holdman, except the person spoken of, living near Hot Springs.

Question. Is the person whose name is spelled Holman, in the deposition shown you, the same person as the one you speak of, whose name you spell Holdman?

Answer. He is the same man.

(The solicitor for the United States objects to all those portions of the testimony of the witness Grant which relates to the death and circumstances of Tholman or Thomas Holdman, as being irrelevant and wholly immaterial.)

Question. Did you know John Perciful during his life-time?

Answer. I knew John Perciful during his life-time.

Question. When did you become acquainted with him?

Answer. I first became acquainted with him in 1825, at Hot Springs.

Question. Where did he reside at that time?

Answer. His family were then on the Ou'chita River, on the place now owned by Doctor Lawrence, and he, Perciful, resided there then, I guess.

Question. What was he doing at Hot Springs when you saw him?

Answer. He came in with a load of provisions, with a wagon.

Question. Did he have houses at Hot Springs to supply with provisions at that time?

(Objected to by the solicitor for United States as being leading, and wholly immaterial, and also objected to by claimant, H. M. Rector, for the same reason.)

Answer. He, Perciful, said he had two houses here at that time, but I did not know it to be so; he said he had these buildings rented.

(Objected to by the solicitor for the United States and by claimant, H. M. Rector, as being hearsay testimony.)

Question. Were you at Hot Springs in the year 1826, 1827, 1828, or in either of those years?

Answer. I was at Hot Springs in 1828.

Question. Did you work any at Hot Springs in the year 1828?

Answer. My memory is not altogether good, but I don't think I did until 1829.

Question. For whom did you work in 1829, and what kind of work did you do? State also what time of the year it was.

Answer. I worked at Hot Springs some in January and February, 1829. I worked for a man who signed his name L. Belding. I made rails for him at that time. I worked for the same man from some time in July until October, in the same year. I was then building houses for him. I built three or four hewed log cabins for him during this time.

Question. Who was in possession of the Hot Springs at the time you built the cabins spoken of?

(Objected to by the solititor for the United States as immaterial.)

Answer. L. Belding was keeping a boarding-house here at that time.

241 Question. Did L. Belding, or did he not, at the time you built the cabins spoken of, or at any time afterwards, tell you for whom he was having them built?

(Objected to by the solicitor for the United States as being hearsay evidence, and being immaterial.)

Answer. He told me that he was having them built for John Perciful.

Question. Did he give you any reason why he was building them for John Perciful?

(Objected to by the solicitor for the United States as immaterial, and as hearsay testimony.)

Answer. He told me that he had leased or rented the springs from John Perciful for the term of five years, and was to pay for it in improving the springs.

(The last answer is further objected to by the solicitor for the United States as being secondary evidence.)

Question. What use did Belding make of the rails that you split for him?

Answer. He fenced in a garden at the springs with them.

Question. Did you do any work for Belding in the year 1829, other than that spoken of?

Answer. Between February and July I made a crop for L. Belding on his farm at the Gulphur Creek, about six miles from Hot Springs.

Question. Is the farm on which you cultivated the crop for L. Belding the same as the one where William H. Gaines is now living, or owned by William H. Gaines?

Answer. It is the same farm.

Question. Who is in possession of the Hot Springs now?

Answer. John C. Hale is in possession of the main part of the Hot Springs; the Belding heirs and H. M. Rector have possession of a part of the springs north and south of his possessions.

Question. How long have you known John C. Hale to be in possession of and living at the springs?

Answer. John C. Hale has been in possession of a part of the Hot Springs and living at the Hot Springs from February, 1844, to my knowledge.

Question. Were you at Hot Springs in 1830?

Answer. I left the Hot Springs in January, 1830, and went to Sevier County.

Question. Were you acquainted with the character of Thomas Holonan?

Answer. I was.

Question. What was his character as to truth and veracity?

Answer. His character for truth and veracity was good. He was looked upon as a good citizen.

(The last two questions and answers are objected to by the solicitor for the United States, as being irrelevant and immaterial.)

Question. Did you see L. Belding after you left Hot Springs; if so, when and where?

Answer. I saw him at my house on the Cossatot River, in Sevier County, in 1831.

Question. What was his occupation at that time?

Answer. He was buying beef-cattle and corn for the Choctaw Indians. He said he had a contract from the Government to supply the Indians.

Question. Did the Belding heirs have any possessions at the Hot Springs from 1844 to 1850?

Answer. They had no possessions at the Hot Springs from 1844 to 1850 that I know of.

Being cross-examined by W. G. Whipple, solicitor for the United States, the witness says:

Question. How long have you known John C. Hale?

Answer. I have known him since February, 1844.

Question. Within what distance of him have you resided during that time?

Answer. Since 1844, until five months since, I have lived within twelve miles of him. Since that time I have lived within forty miles of him.

Question. How long have you been intimately acquainted with John C. Hale?

Answer. I have been intimately acquainted with John C. Hale since 1844.

Question. Have you ever been in his employ? If so, state when and how.

Answer. I have; I have split, sold, and hauled boards to him, and have covered two buildings for him—one a stable and the other a bar-room.

Question. When were you last employed by him?

Answer. I cannot positively say the last time that I was employed by him.

Question. Have you been in the habit of visiting the Hot Springs often during the time of your acquaintance with John C. Hale?

Answer. I have been in the habit of visiting the Hot Springs once a week, sometimes not so often, and sometimes oftener, during the whole of this time except the last five months, and have been here several times within the last five months.

Question. Where have you been in the habit of putting up at the springs?

Answer. When I stay at the springs all night I always stopped at Mr. Hale's hotel, although I have seldom stopped over night, as I have usually returned home the same day.

Question. Does John C. Hale keep a hotel at the springs; if so, how long has he done so?

Answer. He does; he has kept a hotel, I think, during the whole of my acquaintance with him, except that he leased it to his son and daughter a part of the time.

Question. Did you not go to Washington, Hempstead County, to testify before the register and receiver of the land-office with regard to what is known as the Perciful pre-emption?

Answer. I did.

Question. At whose instance or request did you go?

Answer. At the request of John C. Hale.

Question. How did you get there?

Answer. I rode on horseback.

Question. Did John C. Hale go in the same party with you?

Answer. He did not; he was there when I got there.

Question. Have you had any talk with Mr. Hale about what you are testifying about?

Answer. I have not.

Question. Has Mr. Hale or his attorneys inquired of you about what you could testify to?

Answer. They have not.

Question. Did Mr. Hale or any attorney of his, or other person for him, ever ask you what you knew in regard to the Belding's lease from Perciful, or in regard to Perciful's residence at or near the springs?

242 Answer. None except the attorneys at Washington, Ark., when I gave in my testimony before the register at the land-office.

Question. Did you ever make an affidavit for Mr. Hale to support his claim to the springs?

Answer. I do not recollect that I have.

Question. Is it possible that you could have given such an affidavit without now recollecting it?

Answer. I may have done so; my recollection is poor, as I am old and can't recollect very well. It has not been good for several years?

Question. Do you feel that age has impaired your memory?

Answer. I do.

Question. When did you first remove to the vicinity of Hot Springs?

Answer. I moved on the Saline, about ten miles from the springs, in February, 1844.

Question. Where did you reside before that?

Answer. I was born in Pennsylvania and moved to Tennessee about 1821, and removed to Fulton, Arkansas, in the year 1823; I spent the time from 1823 to 1825 hunting about the woods of Arkansas, with the exception of the time that I was sick. In 1825 I came to Hot Springs, and remained here about one day and went to Bayou Meto, in Pulaski County, Arkansas, and lived there until September, 1827, when I removed to the Ouachita River, and remained there until 1828.

At this point the court adjourned the further taking of this testimony until 9 o'clock on the 29th day of August, 1873.

August 29, the examination was resumed, and the witness IRA T. GRANT, again taking the stand, deposes as follows:

Question. At what point on the Ouachita River did you go to, and how long did you remain there?

Answer. I went to the Ouachita River at a point about ten miles west of Hot Springs, and remained there until January, 1829.

Question. Where did you go then?

Answer. I came from there to Hot Springs, and worked for L. Belding during January and February, making rails for him.

Question. How long did you remain at Hot Springs?

Answer. During January and February.

Question. Where did you go then?

Answer. I worked for the same man, Belding, on the Gulphur, making a crop.

Question. How long did you then work for him; and where did you then remove to?

Answer. I worked for him until crops were laid by; I don't remember how many months it was; and after I had done the crop, I undertook to build him four log cabins at Hot Springs. I was working about Hot Springs until January, 1830, and then went to Sevier County, in the Territory of Arkansas.

Question. To what part of Sevier County did you go; what were you engaged in while there; how long did you remain there; and to what place did you then remove?

Answer. I went to the Cosetot River, about fifteen miles north of Paraelifta, and my principal occupation was that of a farmer, and remained there until the first part of the year 1836; and, in the mean time, married. From there I removed to the Ouachita River, about two and one-half miles from Iron's Sulphur Springs, then in Hot Spring County.

Question. How long did you stay there; and where did you then go?

Answer. I did not remain at that place all of the time, but lived at other places in the neighborhood until 1844, and from there I removed

on the South Fork of the Saline, on a place then owned by H. A. Whittington, about ten miles from Hot Springs.

Question. State where you resided before you came to Tennessee in 1821?

(The last question was objected to by the attorney for John C. Hale, unless the attorney for the United States will show that it has some bearing on the issues in this cause.

The solicitor of the United States insists that the question be answered by the witness, and claims that the solicitors for the complainant have power only to object to the interrogatories propounded on the part of the Government; and further claims that the commissioner taking this testimony has no discretion to overrule interrogatories propounded on the part of the Government, but is required, according to rule 16th of the Court of Claims, which prescribe the duties of commissioners, to write down all questions propounded by the solicitor for the United States, and to take the answers of witnesses thereto, as nearly as can be, in the words of the witness. He further insists that it is proper cross-examination, as tending to exhibit the character and credibility of the witness produced on behalf of the claimant, Hale, to show that prior to 1821 the witness led the same wandering adventurous life that the foregoing testimony shows that he did after that time.

The last question is by the commissioner refused to be answered, upon the ground that it is wholly irrelevant to the matter in issue.

To which ruling of the commissioner the solicitor for the United States enters his protest as an unwarranted exercise of power.)

Question. You state in your evidence that you visited the Hot Springs in 1825. State whether at that time you ever saw here a man by the name of Joseph Paxton.

(Objected to by the solicitor for John C. Hale, and the question is withdrawn by the solicitor for the United States.)

Question. You have stated in your examination-in-chief that you saw John Perciful at Hot Springs in 1825. State what he was doing here; state fully.

Answer. He came in Hot Springs with provisions for the people at Hot Springs, in a wagon. I can't state any more than what I have.

Question. Did you see him hauling provisions to the Springs? If so, describe the circumstances under which you saw him, particularly.

Answer. I don't know that I can describe any more particularly than I have. I saw his wagon with provisions; he was in the valley with his wagon. I saw meal and meat in the wagon. I don't know of my own knowledge where he got the provisions. I did not see them unloaded; they were in the wagon when I last saw it. The wagon was drawn by oxen, which were still attached to the wagon when I saw it last.

Question. Had you ever seen John Perciful before this time you speak of?

Answer. It was the first time that I had ever seen John Perciful.

Question. When did you next visit the springs?

Answer. I visited the springs again in 1828.

Question. Where did John Perciful reside in 1825, when you visited the springs?

Answer. I never was at his residence at that time. I understood that his family lived on the Ouachita at that time.

Question. How many buildings of any kind were there at the springs in 1825?

213 Answer. I don't know how many. There were two that I know of, and don't know how many more there were.

Question. Do you state positively that there were any more than those two buildings at the springs in 1825?

Answer. No, sir.

Question. State as particularly as you can what those two buildings were used for at that time?

Answer. I saw people living in them, and saw beds or bunks in them.

Question. How many people did you see that appeared to be living in those two buildings at that time?

Answer. I did not count them.

Question. Do you know who the parties were that appeared to be living in those two buildings; do you or did you know any one of them?

Answer. There was a man there by the name of John McDavid, but don't know whether he lived there or not. I did not know and did not know any other person there.

Question. Do you know who any of the others were?

Answer. I don't.

Question. Did you see John Perciful employed about anything in 1825, when you say you were at Hot Springs; if so, what?

Answer. I did not see him employed at anything at that time, except I saw him driving his team home.

Question. In what direction was he driving his team at this time, when you state you saw him driving it home?

Answer. He crossed the Hot Springs Creek at the lower or southern end of the valley, and went in an easterly direction, on what is known now as the Rockport road. This was along about sundown of the day when I got here to Hot Springs.

Question. Did you have any conversation with Perciful at the time you now speak of with reference to his place of residence? If so, state what it was, and what Perciful said on the subject.

Answer. I did not.

Question. At what time in 1828 did you again visit the Hot Springs.

Answer. I passed through Hot Springs some time in the latter part of September in that year.

Question. Did you see John Perciful at the Hot Springs at that time?

Answer. I did not.

Question. How many buildings or structures did you see in Hot Springs at that time?

Answer. I can't say; I was not here over half an hour. I stopped a few moments with a man named Tom Holman, who lived on the Ouachita River at the time. I was sick at the time, and hardly able to walk, and did not take much notice of anything.

Question. When did you next visit the Hot Springs?

Answer. I again visited Hot Springs in January, 1829, and remained here near two months.

Question. How many buildings or structures were there here at that time, and for what purpose were they used?

Answer. I can't tell; I don't know how many; "there were not many." L. Belding was living in one, and had a little grocery in the other. There were two more cabins or buildings, built of logs, below Belding in the lower part of the valley; one of them was occupied by a man by the name of Millard; I don't know who occupied the other. There may have been more buildings; I don't now recollect.

Question. Did you see John Perciful while you were at the Springs during these two months you now speak of? If so, state where you saw him, and what he seemed to be engaged in, if anything.

Answer. I did see him; I can't tell what he was engaged in any more

than this; I was out at my work every day; I saw him frequently, sometimes on horseback and sometimes with his wagon, but don't know what he was there for and nothing at all about it.

Question. Did John Perciful live at the Springs at that time?

Answer. He did not.

Question. What were you doing at the Springs at this time?

Answer. I was making rails for L. Belding; that was my principal business; the rails were used to fence in a garden at Hot Springs.

Question. Do you know who occupied the garden you speak of?

Answer. I believe that L. Belding had it occupied that summer. I don't think he labored himself, but had it occupied.

Question. What was L. Belding doing at that time, if anything?

Answer. During the summer he was attending to his little grocery and keeping boarders.

Question. You stated in your direct examination, that while you were at work for L. Belding at the time you now speak of, that he informed you that he had a lease from John Perciful, and that the lease was for five years, did you not?

Answer. I did.

Question. Have you not stated on another occasion that Belding informed you at that time that his lease from Perciful was for three years?

Answer. No, sir; never.

Question. Did you not so state in your testimony, before the officers of the land-office at Washington, in this State?

Answer. No.

Question. Did Mr. Belding ever make any statements to you with regard to his "pretended" lease from Perciful on more than one occasion?

Answer. None that I recollect of.

Question. State the circumstances particularly, of your conversation with Belding with regard to the lease, where you were at the time, and all about it.

Answer. While I was working for him making them rails, in Hot Springs here, at his house after supper, he told me that he wanted some buildings put up here at the Springs; I asked him if he had bought the springs from Perciful; he answered no, that he had leased it from Perciful for five years and he was to pay the lease by improving the springs.

Question. Was any one present when this conversation took place?

Answer. I don't recollect of any one being present except his wife and his wife's mother, old Mrs. Bassett.

Question. Did you ever visit John Perciful's place of residence; if so, when and how often?

Answer. I have been at his residence, but cannot tell when nor how often; I was there for the first time in 1829.

Question. State where Perciful then resided?

Answer. On the Ouachita River, about seven miles from Hot Springs. I remained there at that time but a few hours.

Question. State who you saw at Perciful's residence at this time?

Answer. I saw Mr. Perciful, his wife, and I believe their son David, and there were two persons there sick; what their names were I do not know.

Question. Was the building that Perciful occupied of permanent structure or not? Describe it.

Answer. It was a log-house with puncheon-floor.

244 Question. When was the last time that you visited John Perciful's residence, spoken of, on the Ouachita River?

Answer. I don't think that I was at his house there after the latter part of 1829.

Question. Who did you see at his residence at that time?

Answer. I don't know that I saw any one there except his family.

Question. Did you see John Perciful there at that time?

Answer. I don't recollect whether I saw him or not; I might and might not. I saw his family there.

Question. How long did you remain acquainted with John Perciful; and did he reside anywhere else during your acquaintance with him, except on the Ouachita River?

Answer. I remained acquainted with John Perciful from 1825 until the latter part of 1829. He did not live at any other place than the one spoken of during that time that I know of.

Question. Did L. Belding, the man you say you split rails for in 1829, cultivate any of that part of what is known as the Hot Springs reservation, that is, the southwest quarter of section 33, township 2 south, range 19 west, or what is known as the Hot Springs quarter, during the year 1829?

Answer. I don't know the numbers of the land. He had a garden cultivated near where Moon's store is now situate.

Question. State, if you know, what was raised in that garden.

Answer. I don't know. I don't know that I was ever in the garden.

Question. Do you know that he cultivated a garden at all, either by himself or others?

Answer. I saw a negro woman working in the garden—digging in the garden.

Question. Do you know whether any vegetables were raised in the garden?

Answer. I saw corn growing in the garden.

Question. Was any other piece of ground in Hot Springs Valley, besides this garden you now speak of, cultivated by Belding or any one else in 1829?

Answer. Not that I know of.

Question. Did L. Belding, the man you have spoken of in your testimony, ever reside on the Gulphur Creek?

Answer. Not to my knowledge.

Question. Did he have a place on the Gulphur; and did his family ever live there to your knowledge?

Answer. He had a place on the Gulphur. His family never resided there to my knowledge.

Re-examined in chief:

Question. After you married did you settle down?

Answer. I did.

Question. Were you ever elected in Hot Spring County to any office?

(The solicitor for the United States here objected to the testimony as being immaterial.)

Answer. I was.

Question. To what office was you elected, and how long did you serve; and what was the office that you were elected to?

Answer. I was elected as justice of the peace four times, and appointed twice by the governor of Arkansas to the said office of justice of the peace.

Question. When you went to Washington, Hempstead County, Arkansas, as a witness, were you sworn before the register and receiver of the land-office in the interest of any of the litigants to the Hot Spring reservation? If so, by whom?

Answer. I was sworn on the part of Henry M. Rector.

Second general interrogatory by the commissioner:

Question. Do you know of any other matter relative to the claim in question? If so, state it.

A. I do not.

IRA T. GRANT.

Sworn to and subscribed to before me this 29th day of August, 1873.

L. D. BELDIN,
Commissioner.

The deposition of Lucinda Lowe, for claimant, taken at Hot Springs, Ark., on the 29th day of August A. D. 1874.

First general interrogatory by the commissioner:

Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Lucinda Lowe; my occupation, I am the wife of Mathew Lowe, who is a farmer; my age is thirty-nine years; my place of residence during the last year has been in Hot Spring County, now Garland County, about eight miles southeast from Hot Springs. I have no interest whatever in the claim herein litigated. I am not related to John C. Hale, the claimant herein, in any way.

Being interrogated by Hugh McCallum, solicitor for John C. Hale, the claimant, the witness says:

Question. Did you know Sarah Perciful in her life-time; where did she reside; how long were you acquainted with her; is she dead or alive; if she is dead, how do you know that fact?

Answer. I knew Sarah Perciful in her life-time; she resided on the Ouachita River, about seven miles from Hot Springs. I have been acquainted with her ever since I can recollect until she died. I was born within one mile of her residence on the Ouachita River, and lived there until Mrs. Perciful's death. She is now dead. I saw her after she died and recognized her as Mrs. Perciful. Mrs. Perciful resided on the Ouachita River ever since I knew her until her death.

Second general interrogatory by the commissioner:

Question. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

her
LUCINDA + LOWE.
mark.

Sworn to and subscribed before me this 29th day of August, 1873.

L. D. BELDIN,
Commissioner.

215 *The deposition of Sarah Hale, for claimant, taken at Hot Springs, Ark., on the 29th day of August, A. D.* 1874.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence; if you have any, what, interest, direct or indirect, which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Sarah Hale. I am the wife of John C. Hale, who carries on a hotel in Hot Springs, Ark. I am sixty-seven years of age. I have resided the past year in Hot Spring Valley. I am the wife of John C. Hale, the claimant in this suit, and his interest is of course my interest.

Being interrogated by the solicitor for the claimant, John C. Hale, the witness says:

Question. Were you acquainted with Sarah Perciful, the widow of John Perciful, the claimant for the Perciful pre-emption right for the Hot Springs? Where did she reside, while you were acquainted with her? How long did you know her? Is she dead or alive? If dead, when and where did she die, and how do you know that fact.

Answer. I was acquainted with Sarah Perciful, the wife of John Perciful, the claimant to the Perciful pre-emption to the Hot Springs. She lived on the Ouachita River, near the Gulphur Creek, about seven miles from Hot Springs. I was acquainted with her nearly three years before she died. She is dead; she died at the said place, on the Ouachita River, to the best of my recollection; she died in the fall of 1843. I was with her and saw her die, and helped to lay her out after she was dead.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

SARAH HALE.

Sworn to and subscribed before me this 29th day of August, 1873.

L. D. BELDEN,
Commissioner.

The deposition of Philip S. Physick, for claimant, taken at Hot Springs, Ark., on the 30th day of August, A. D. 1874.

(Philip S. Physick being produced on the part of John C. Hale, the solicitor for the United States objects to the examination of said witness for the reason that the name of this witness does not appear in the list of witnesses contained in the notice to take testimony in this case at this time and place, but consents that this objection may be withdrawn, provided the name of said witness appears upon the original notice to take testimony in this case, August 25, 1873, at Arkadelphia, Clark County, Ark.; and thereupon the witness, Philip S. Physick, being duly sworn, deposes and says as follows:)

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Philip Syng Physick. My occupation at this time is that of a farmer. My age—I was born in 1795, on the 5th of January. I was born in Cecil County, State of Maryland. I have lived during the past year in Fenter Township, Hot Spring County, State of Arkansas. I have no interest in the subject-matter of this suit. I am not related in any manner on earth to John C. Hale.

Being interrogated by the solicitor for John C. Hale, the witness says:

Question. When did you first visit the Hot Springs of Arkansas?

Answer. I left New Orleans on the latter part of June, and came to

the mouth of Blakely Creek in a battaux or small boat, and then took the Dardinelle trace or trail to the Hot Springs, and there met John Perciful at the Hot Springs, and made inquiry of him in regard to the Whetstone quarry. This was in the year 1820.

Question. What was John Perciful doing at Hot Springs at that time?

Answer. He was a hunter, and killed deer and brought them in and furnished visitors that were camped in the valley with venison.

Question. Did he have any house of his own in the valley?

Annwer. He had a house in the valley, and claimed the springs as his property.

(The last part of the last answer is objected to by the solicitor for the United States, as not being responsive to the question, and as being immaterial.)

Question. Did he have a family?

Answer. He had a family; a wife and one child.

Question. Where did his family reside in 1820?

Answer. In the summer they resided at Hot Springs. In the winter they usually went to the Ouachita.

Question. Were you in John Perciful's house at Hot Springs in 1820?

Answer. Yes; I was in his house.

Question. How long did you remain at or near Hot Springs in 1820?

Answer. I came here in July, and went to the stone-quarry, six miles north of the Hot Springs, and remained there until in February, 1821.

Question. During this time did you pass through Hot Springs often or not?

Answer. I passed through Hot Springs several times; I don't recollect how many.

Question. Did John Purciful claim the Hot Springs at that time?

(Objected to by the solicitor for the United States as being irrelevant and immaterial.)

Answer. He did; and forbid any other person from building there without his consent.

Question. Did any other person but John Perciful claim Hot Springs at that time?

(Objected to by the solicitor for the United States as being irrelevant and immaterial.)

Answer. None that I know of.

Question. When were you next at Hot Springs, after you left here in 1821, for some time?

Answer. I was next at Hot Springs for some time in the year 1832. I can't recollect anything about being here at any particular time from 1821 to 1832.

Question. What did you do at Hot Springs in 1832, and how long did you stay here?

246 Answer. I got a house from Perciful in the fall of 1832, or was a partner with him in keeping a boarding-house. We were to divide the profits, if there would be any, and the loss, if we sustained loss.

Question. How long did you keep the house?

Answer. I kept it all the summer of 1833.

Question. What did you do with the house after your time was out?

Answer. I returned it to John Perciful.

Question. Who had possession of the house after you left?

Answer. Rayburn had it, for I recollect of staying one night with him.

Question. Were you acquainted at Hot Springs for several years after the year 1833?

Answer. I don't think I was here much after that time. I have not been here in the last thirty years.

Question. Were you acquainted with Tom Holman and Sarah Perciful?

Answer. I was very well acquainted with them. Tom Holman was a good man.

(Objected to by the counsel for the United States as being not responsive to the question, and as being immaterial.)

Q. What was the character of Sarah Perciful?

(The last question is objected to by the solicitor for the United States upon the ground of immateriality.)

Answer. She was a good woman, hospitable and kind.

Being cross-examined by W. G. Whipple, solicitor for the United States, the witness says:

Question. Did you ever visit John Perciful's place on the Ouachita River?

Answer. Yes, sir; I have been to his house there along in the winter.

Question. Did John Perciful live on the Ouachita River, to your knowledge; and, if so, how long, and at what time?

Answer. He had a farm on the Ouachita River, and after the watering season he would move down to it and live there in the fall or winter after the visitors left, and would come back in the following spring, about the time that visitors came to the Hot Springs. When the visitors came in he hunted and killed deer for them.

Question. How often and at what times did you visit John Perciful's place on the Ouachita River?

Answer. I don't know how often, but passed frequently going from the Whetstone quarry to the Fenter settlement, where I got my provisions. This was in the winter of 1820 and 1821.

Question. Did you visit his place on the Ouachita River at any other time?

Answer. When I kept the boarding-house at the Hot Springs, in the years 1832 and 1833, I would often pass Perciful's house and get provisions for the visitors.

Question. Who would you usually see at Perciful's residence on the Ouachita River?

Answer. I generally saw Perciful, his wife, and his son David when I passed there. He lived in a log house on the Ouachita River.

Question. Have you ever given your deposition before in what is known as the Hot Springs title case?

Answer. I am not sure, but believe I have; don't recollect.

Question. At whose request did you give your deposition, if you gave it?

Answer. I don't recollect at whose request.

Question. Was it at John C. Hale's request?

Answer. I don't recollect. My recollection is almost gone.

Question. Did you ever give your affidavit for Mr. Hale in regard to his claim to the Hot Springs?

Answer. Well, I don't know whether I did or not.

Question. How far do you now live from this place where this testimony is being taken?

Answer. By the wagon-road it is twenty-three or four miles.

Question. How did you get here this time to give your deposition.

Answer. I came here in a hack.

Question. Who paid your fare here?

Answer. I haven't paid any fare for coming here at this time. A hack came for me at my house in Fenter Township, and brought me here. I understand that Mr. McCallum, who is attorney for Mr. Hale, in taking these depositions, furnished the hack.

Question. Have you had any conversation with Mr. Hale or Mr. McCallum, his attorney, or with any other person representing Mr. Hale, as to what you could testify at this time?

Answer. Yes; I told Mr. Hale that I knew that John Perciful resided at Hot Springs in 1820. He asked me if I knew, and I told him that I did.

Question. Do you recollect whether you went to the residence of Perciful on the Ouachita River between the years 1821 and 1832?

Answer. I recollect that some time between the years 1821 and 1832 I was wading a bayou and was bitten by a snake, and went to John Perciful's house and remained there until Asa Dean came with a wagon and hauled me to Mr. Fenter's.

Re-examined in chief.

Question. Did the sheriff or deputy sheriff of Hot Spring County serve a subpœna on you to go to Arkadelphia to give your deposition before Judge Kingston, on the twenty-fifth of this month, in this cause?

(Objected to as immaterial by the solicitor for the United States.)

Answer. Yes, sir; the deputy sheriff did.

Question. Did you send any word why you could not go?

(Objected to by the solicitor for the United States, as being immaterial, and as not being proper redirect examination.)

Answer. Yes; I sent word that I had the cholera morbus and could not go.

Question. Did Hale's attorney visit you and ask you if you would come to Hot Springs?

Answer. Yes, sir; and I promised him that if he would send a hack that I would go to Hot Springs.

(The question is objected to by the solicitor for the United States as leading, calling for hearsay, and otherwise improper.)

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I don't remember of anything.

PHILIP S. PHYSICK.

Sworn to and subscribed before me this 30th day of August, 1873.

L. D. BELDIN,
Commissioner.

247 *The deposition of Nancy Sorter, for claimant, taken at Hot Springs, Ark., on the 30th day of August, A. D. 1874.*

(Mrs. Nancy Sorter being produced on the part of the complainant, John C. Hale, and offered as a witness, the solicitor for the United States objects to the examination of the witness for the reason that the name of the witness does not appear on the list of witnesses named in the notice to take testimony in this case at this time and place.)

The said NANCY SORTER, being duly sworn, deposes as follows:

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Nancy Sorter. I am farming. My age is fifty-two. I am fifty-two years of age. I have resided during the past year in Hot Spring, now Garland County, Ark., about fourteen miles from Hot Springs. I have no interest, direct or indirect, in the claim which is the subject of inquiry. I am not related to the claimant, John C. Hale.

Being interrogated by the solicitor for John C. Hale, the witness says:

Question. Were you acquainted with Samuel Sorter during his life-time? How long were you acquainted with him? Where did he reside? Is he dead or alive? If dead, how do you know that fact; and when and where did he die?

(Objected to by the solicitor for the United States, as being irrelevant to the issues to this suit, and as being wholly immaterial.)

Answer. I was acquainted with Samuel Sorter during his life-time. I was acquainted with him for twenty-nine years. He resided a part of the time at Hot Springs and a part of the time in the vicinity of Hot Springs. He is dead. I saw him die and saw him after he was dead. He died about twelve miles from Hot Springs. He died on the 10th of March, fourteen years ago.

Question. Are you the widow of Samuel Sorter?

Answer. I am the widow of Samuel Sorter.

Question. Did you know of any other man by the name of Samuel Sorter, about Hot Springs, in the year 1850, or about that time?

(Objected to by the solicitor for the United States for the reasons named in the former objection.)

Answer. I knew no other person by that name about Hot Springs at that time.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

her
NANCY + SORTER.
mark.

Sworn to and subscribed to before me this 30th day of August, 1873.

L. D. BELDIN,
Commissioner.

The deposition of Elizabeth Davis, for claimant, taken at Hot Springs, Ark., on the 1st day of August, A. D. 1874.

(Mrs. Elizabeth Davis being produced, the solicitor for the United States objects to the examination of the witness for the reason that her name does not appear in the list of witnesses named in the notice to take testimony in this case at this time and place.)

The witness, Mrs. ELIZABETH DAVIS, being duly sworn, deposes and says:

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year;

whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Elizabeth Davis. I am keeping a boarding-house. I am fifty-eight years of age. I have resided in Hot Springs Valley during the past year. I have no interest in what is known as the Hot Springs quarter-section. I am not related to the claimant, John C. Hale.

Being interrogated by Hugh McCallum, solicitor for John C. Hale, the witness says:

Question. Were you acquainted with Mrs. Abigail Sabin; where did she reside; how long were you acquainted with her; is she dead or alive; and if dead, how do you know that fact; and when and where did she die?

(The question is objected to by the solicitor for the United States as being irrelevant and otherwise incompetent.)

Answer. I was acquainted with Abigail Sabin; she resided at Hot Springs; I was acquainted with her about two years; she is dead; I saw her die; she died in the year 1862, as far as I can recollect; she died at Hot Springs.

Question. Did you know of any other lady living at Hot Springs by the name of Abigail Sabin?

Answer. I did not.

Being cross examined by W. G. Whipple, solicitor for the United States:

Question. Have you any interest in any claim or case now pending before the Court of Claims, at Washington, D. C., relating to improvements upon any part of what is known as the Hot Springs reservation?

Answer. I am. Outside of the quarter-section I have a house and lot and improvements on the reservation, and have filed a claim in that court, which is now pending.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

ELIZABETH DAVIS.

Sworn to and subscribed before me this 1st day of September, 1873.

L. D. BELDIN,
Commissioner.

248 *The deposition of Ann Fullerton, for claimant, taken at Hot Springs, Ark., on the 2d day of September, A. D. 1874.*

(Ann Fullerton being produced as a witness on the part of the claimant, the solicitor for the United States objected to the examination of this witness, for the reason that the attorney for the United States has not been duly notified thereof.)

ANN FULLERTON, being duly sworn, deposes as follows:

First genereral interrogatory by the commissioner. Please to state your name, age, your place of residence the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant?

Answer. My name is Ann Fullerton. I am assisting in house-keeping.

I am sixty-five years. I have resided at Hot Spring Valley the past year. I have no interest in the claim which is the subject of inquiry. I am not related to the claimant, John C. Hale.

Being interrogated by Hugh McCallum, solicitor for the claimant, the witness says:

Question. Were you acquainted with John W. Fullerton, in his life-time? How long were you acquainted with him? Where did he reside? Is he dead or alive, and if dead how do you know that fact; and when and where did he die?

(The question is objected to by the solicitor for the United States, as being irrelevant and immaterial.)

Answer. I was acquainted with John W. Fullerton in his life-time. I was acquainted with him about thirty-seven years. I first became acquainted with him in Tennessee, and I and he removed to Arkansas in the year 1839, and he lived within six miles of Hot Springs from that time until his death; he is dead; I saw him die, and helped to bury him. He died on the 26th day of August, 1864; he died in Severe County, Arkansas. I am the widow of the said John W. Fullerton.

Question. Were you reasonably well acquainted with the people around Hot Springs since 1840?

Answer. I was.

Question. Did you know any person by the name of John W. Fullerton except your husband living around the Hot Springs since you became so acquainted?

Answer. I did not.

Question. How long have you been acquainted with John C. Hale?

Answer. Since 1843.

Question. Where has he and his family resided since 1843?

Answer. They resided on what is known as the Hot Spring quarter-section at Hot Springs, except they refugeed a short time during the war, and went to Texas to get away from the armies. Myself and husband were refugees at the same time, and visited him in Texas, where he was living at that time with Mr. Warren.

Being cross-examined by W. G. Whipple, solicitor for the United States, the witness says:

Cross-question. Have you any interest in any claim to any part of the Hot Springs reservation or to any improvements thereon now pending before the Court of Claims, at Washington, D. C.?

Answer. I have. I own the claim which is represented by John Fisher, who is my son-in-law, which has been filed in that court.

Cross-question. Do you know at what time John C. Hale left the Hot Springs at the time you state that he refugeed to Texas, and why he so left?

Answer. I don't recollect exactly the time. We, myself and husband, left here in 1864, and Hale left before we did; several months before we did. Mr. Hale left here to save his life, I suppose. The Federal troops were here in the valley, and Mr. Hale was afraid that they would take his life.

Cross-question. Did John C. Hale give any aid or assistance to the confederate army or the cause of the confederacy? If so, state how and to what extent.

(The last question is objected to by Hale's counsel, for the reason that it is not referred to in the direct examination, and is not a proper question on a cross-examination.)

Answer. I do not know anything about it, whether he did or not.

Cross-question. With which side did the claimant, John C. Hale, sympathize during the war?

(The question is objected to by Hugh McCullum, attorney for John C. Hale, for the same reason named in his last objection.)

Answer. I don't know anything much about it; but I suppose that he symyathized with the southern cause.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

her
ANN + FULLERTON.
mark.

Sworn to and subscribed before me this 2d day of September, 1873.
L. D. BELDIN, *Commissioner.*

The deposition of Phineas Barnes, for claimant, taken at Hot Springs, Arkansas, on the 2d day of September, A. D. 1874.

(Phineas Barnes, being produced as a witness on the part of the claimant, when the solicitor for the United States objects to the taking of the deposition of the witness, for the reason that the United States has not been duly notified of the examination.)

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry, and whether and in what degree you are related to the claimant.

Answer. My name is Phineas Barnes. My occupation at present is manufacturing oil-stone. I am fifty-seven years of age; have resided at Hot Springs during the last year. I have no interest in the quarter-section known as the Hot Springs quarter-section, whatever; but I am living on a portion of the Hot Springs reservation outside of said quarter-section. I claim a title to my possessions on the reservation and to the improvements thereon, and have filed a claim thereto, which is now pending in the Court of Claims. I am not related to the claimant, John C. Hale.

249 Being interrogated by Hugh McCallum, solicitor for the claimant, the witness says:

Question. Please examine this agreement, bond, or contract, and state whether you do or do not know the signatures of John C. Hale, Milas H. Woods, Sarah Perciful, and David Perciful; also the signatures of the witnesses Warren Dunham and John C. Kuykendall.

(The question is objected to by the solicitor for the United States as being irrelevant, immaterial, and otherwise incompetent upon the issues and facts in this case, and for the further special reason that the document to which the attention of the witness is called by the above interrogatory purports to contain the name of subscribing witnesses and the name of the witness now under examination does not appear upon the said document, or series or documents, in any manner; and the absence of the subscribing witnesses thereto is not explained or accounted for.)

Answer. The signatures of John C. Hale and Milas H. Woods are genuine. I don't know anything about the signatures of Sarah Perciful or of David Perciful. The signature of the witness John C. Kuykendal is his signature. That of Warren Dunham I do not know.

Question. Have you ever seen John C. Hale, Milas H. Woods, and John C. Kuykendal write?

Answer. I have.

Question. Is this Exhibit A to your deposition a true copy of the original?

(The question is objected to by the solicitor for the United States as being irrelevant and immaterial, and as calling for secondary evidence.)

Answer. It is a true copy.

Question. Please examine this contract, and state whether the signatures of Henry M. Rector and John C. Hale thereto are in their genuine handwriting.

(Objected to by the solicitor for the United States as being irrelevant and immaterial, and for the reason mentioned in the objection hereinafter stated.)

Answer. The signatures of John C. Hale and of Henry M. Rector are genuine.

(The solicitor for the United States further objects to the foregoing question and answer for the reason that the instrument referred to therein purports to contain the names of E. Carley and William P. Strickland as subscribing witnesses thereto, and the absence of neither of said subscribing witnesses is accounted for.)

Question. Do you know E. Carley and William P. Strickland, whose names are signed to said instrument as witnesses?

(Objected to by the solicitor for the United States as being irrelevant and immaterial.)

Answer. I was acquainted with E. Carley; did not know William P. Strickland.

Question. Do you know where E. Carley now is?

Answer. His brother told me recently that he was still in California.

(The last answer is objected to by the solicitor for the United States as being heasay evidence.)

Question. Is the signature of the witness E. Carley his genuine signature?

(Objected to by the solictor for the United States as being immaterial, and for the reason that the absence of the subscribing witnesses is not sufficiently accounted for.)

Answer. The signature of E. Carley to the document is his genuine signature.

Question. Have you ever seen E. Carley write?

Answer. Yes, sir.

Q. Is this Exhibit B a true copy of the original?

(Objected to by the solicitor for the United States as being irrelevant and immaterial, and as calling for secondary evidence.)

Answer. It is a true copy of the original document.

Question. Please examine this deed, and state whether you do or do not know the signature of David Perciful and Elizabeth Perciful, the grantors, and of the witnesses Loretta T. Hale and William G. Rector, signed thereto.

(Objected to by the solicitor for the United States as being irrelevant and immaterial, and for the reasons stated in the objection named below.)

Answer. I know only the signature of Loretta T. Hale, one of the witnesses.

Question. Is she dead or alive?

Answer. She is dead. All I know about it is by common report.

(Objected to by the solicitor for the United States as being hearsay evidence.)

Question. Are the signatures of Charles Burke, J. P., and of Lawson Runyon, J. P., who took the acknowledgments of said instrument, genuine? If so, how do you know?

Answer. They are genuine. I have seen them write.

Question. Is the county-seal properly attached to the recorder's certificate of record attached to said instrument?

Answer. It is.

Question. Is Exhibit C to your deposition a true copy of the original?

(Objected to by the counsel for the United States as being irrelevant and immaterial, and as calling for secondary evidence.)

Answer. It is a true copy of the original.

(The solicitor for the United States objects to all that part of the testimony of the foregoing witness which relates to the execution of the pretended deed of the aforesaid David Perciful to John C. Hale, for the further reason that said pretended original deed purports to contain the signatures of Loretto T. Nale and William G. Rector, as subscribing witnessses thereto, neither of whom is produced, and the absence of neither of whom is accounted for.)

Question. Were you acquainted with Lawson Runyon in his life-time? Where did he reside? How long were you acquainted with him? Is he dead or alive? If dead, how do you know that fact; and when and where did he die?

(Objected to by the solicitor for the United States as irrelevant and immaterial.)

Answer. I was acquainted with Lawson Runyon in his life-time. He resided at Hot Springs. I was acquainted with him some thirty years. He is dead. I helped to bury him. He died some three or four years ago, at Hot Springs.

Question. Have you been reasonably well acquainted with the citizens around Hot Springs for the last thirty years?

Answer. I have been reasonably well acquainted.

Question. Did you know any other person residing at or near Hot Springs by the name of Lawson Runyon, other than the deceased?

Answer. I did not.

Question. When did you first become acquainted with John C. Hale?

250 Answer. I first became acquainted with him in 1840.

Question. Where was he then residing?

Answer. He was then residing at Hot Springs, on the Hot Springs tract.

Question. How long has he resided on the Hot Springs quarter-section?

Answer. Ever since 1840, with the exception of a short time during the war.

Second general interrogatory by the commissioner:

Question. Do you know of any other matter relative to the claim in question? If you do, state it?

Answer. I don't think I do.

PHINEAS BARNES.

Sworn to and subscribed before me this 2d day of August, 1873.

L. D. BELDEN,
Commissioner.

The deposition of H. A. Whittington, claimant, taken at Hot Springs, Ark., on the third day of September, A. D. 1874.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is H. A. Whittington. I am not engaged in active business; am sixty-eight years of age; have resided at Hot Springs during the past year. I have no interest in the claim which is the subject of inquiry, but reside on the Hot Springs reservation outside of the quarter-section, and claim title thereto and the improvements thereon, and have filed a claim thereto, which is now pending in the Court of Claims at Washington, D. C. I am not related to John C. Hale.

Being interrogated by Hugh McCallum, solicitor for the claimant, the witness says:

Question. When did you first come to Arkansas?

Answer. In the year 1826.

Question. Where did you first stop in Arkansas?

Answer. At Little Rock.

Question. When did you first visit the Hot Springs in Arkansas?

Answer. In June, 1832.

Question. When did you move to the Hot Springs in Arkansas?

Answer. Either in December, 1832, or in January, 1833.

Question. Has the vicinity of Hot Springs been your home ever since that time?

Answer. It has, with the exception of six or eight months, when I resided in Montgomery County.

Question. What quarter-section is it that is called the Hot Springs quarter?

Answer. The southwest quarter of section thirty-three, township two south, range nineteen west.

Question. Can you tell who held possession of the said quarter-section from the year 1833 to the year 1840?

Answer. In the summer that I came out here, 1832, the springs were kept by R. C. Hawkins and J. Ramboy; in 1833 they were kept by Philip S. Physick and his brother, Littleton Physick; in 1834 they were kept by Dr. McWilliams; in 1835 and 1836 they were kept by Sam. W. Rayburn, and I believe James S. Conward was a partner of Rayburn; in 1837, 1838, 1839, and 1840 I think Mrs. Sarah Perciful kept them herself. I know she did a part of the time, and I think all of the time.

Question. How long after this, 1840, did Mrs. Perciful keep possession of the springs?

Answer. I don't know that she had possession at all after 1840.

Question. Who held possession after Mrs. Perciful, and how did they get it, if you know?

Answer. John C. Hale and Milas H. Woods. I don't know how they got possession, of my own knowledge.

Question. Did John C. Hale, Miles H. Woods, Sarah Perciful, or David Perciful, either or all of them, tell you how Hale and Woods got possession of said quarter-section?

(Objected to by the solicitor for the United States, for the reason that it calls upon the witness to testify mere hearsay evidence.)

Answer. All of them told me that Hale and Woods got possession by purchase. The reason why my attention was directed to the sale spoken of was that I myself, previous thereto, had contracted with Judge Dunham, as the agent of Mrs. Perciful, to purchase all of the Hot Springs from her—that is, her interest therein, whatever it might be; and before I could get the papers drawn up to suit me she had changed her mind, and I failed to make the purchase.

(The foregoing answer is objected to by the solicitor for the United States, as being irrelevant and immaterial, and not responsive to the interrogatory.

Question. Has John C. Hale held possession on said quarter-section since 1841?

(Objected to by the solicitor for the United States as leading, irrelevant, and immaterial.)

Answer. He, John C. Hale, has held possession on it ever since that time.

Question. From 1832 to 1850 did the Belding heirs have any possession on the Hot Spring quarter-section?

Answer. The Belding heirs, from 1832 to 1850, had no possession on the Hot Spring quarter-section, that I know of. The old man, Jonathan Bassett, the father of Lydia Belding and the father-in-law of Loudovicus Belding, in 1833 sold to me an old house which he said belonged to him, on the Hot Spring quarter-section, for $5. It had rotted very much, and the roof was partially gone.

Question. Did you ever hear the Belding heirs in 1833, 1834, 1835, or 1836, or Belding in his life-time, claim the Hot Springs?

(Objected to by the attorney for the United States as being wholly immaterial.)

Answer. No, I did not. I heard Belding say that he could prove up a pre-emption to the springs if he desired to do so. He merely observed that he could do it.

Question. Were you clerk of Hot Spring County at any time?

Answer. I was.

Question. Would you know the early record-books of Hot Spring County?

Answer. I would.

251 Question. The book exhibited to you, is it the record-book A, for Hot Spring County?

Answer. It is.

Question. Please turn to pages 285, 286, and 287 and examine it, and the proof attached thereto, and state what you know about the original instrument, whose handwriting it is in, and what you recollect about the proof admitting it to record.

Answer. I find a record on said pages. I recollect going before some court and certifying or proving an instrument of writing in the handwrite of L. Belding. I know what I proved on that occasion was correct. It was then fresh in my mind. It was proved in about January, 1872.

Question. Were you acquainted with the handwriting of L. Belding?

Answer. I was.

Question. You are satisfied the original instrument from which the record is made was in the handwriting of L. Belding?

Answer. I was.

Question. Is this Exhibit A, to your deposition, a true copy of the record aforesaid?

Answer. It is.

Question. Did you and Lawson Runyon give your depositions about this instrument in question, in April, 1866, in a suit then pending in the Hot Springs circuit court, in chancery, in a suit about the Hot Springs property, in which John C. Hale was complainant and Wm. H. Gaines and others were defendants?

Answer. I recollect of giving my deposition, in 1866, in regard to the instrument, in the Hot Springs suit. I recollect that Judges English and Watkins were present. I don't recollect anything about Runyon's deposition. He may have been examined before or after I was.

Being cross-examined by W. G. Whipple, solicitor for the United States, the witness says:

Question. Do you know that John C. Hale was in possession of the Hot Springs quarter-section during the whole of the rebellion?

Answer. I left here in September, 1863, and left Hale at Hot Springs, and returned in September, 1865, and found him here on my return. I was away during that time in Texas, and don't know where Hale was during that time.

Second general interrogatory by the commissioners. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

H. A. WHITTINGTON.

Sworn to and subscribed before me this 3d day of September, 1873.

L. D. BELDIN,
Commissioner.

The deposition of John C. Hale, for claimant, taken at Hot Springs on the 3d day of September, A. D. 1874.

The complainant, John C. Hale, here offers himself as a witness to prove the loss of the original instrument referred to in the deposition of H. A. Whittington, and for no other purpose; to the introduction of which witness for that special purpose mentioned the solicitor for the United States consents; and the witness being duly sworn for said special purpose, says, being interrogated by the solicitor for Hale:

Question. State what you know about said instrument being lost, if it is lost.

Answer. I received the original instrument, referred to in the deposition of H. A. Whittington, from Warren Dunham. I gave it to Jacob Mitchell to be delivered to an attorney to be used in a suit then pending, since which delivery I have not seen the instrument, and whether it is in existence or not I do not know. I have made diligent search for it on several occasions at Washington City and other places, and by repeated inquiries of many persons whom I supposed likely to know about it, and have not succeeded in finding it or hearing of it.

J. C. HALE.

Sworn to and subscribed before me this 3d day of September, 1873.

L. D. BELDIN,
Commissioner.

The deposition of W. R. Ballou, for claimant, taken at Hot Springs, on the 3d day of September, A. D. 1874.

First general interrogatory by the commissioner. Please to state your

name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is W. R. Ballou. My occupation is that of carpenter and builder. I am forty-two years of age. I have resided at Hot Springs, Arkansas, the last year. I have no interest at all in the subject of this action. I am not related to the claimant, John C. Hale.

Being interrogated by Hugh McCallum, solicitor for the claimant, the witness says:

Question. How long have you resided at Hot Springs?

Answer. It will be three years on the 27th day of next January since I came here.

Question. Have you carried on your trade at Hot Springs ever since you came here?

Answer. I have, and have followed it since the year 1849, except a short period during the war, when nothing was done.

Q. Do you know the extent of John C. Hale's improvements in Hot Springs Valley? If you do, name it. Are you acquainted with the value of his improvements in Hot Springs Valley? If so, state the probable value of the whole, including the property held by his tenants.

(The last question is objected to by the solicitor for the United States as being irrelevant and immaterial.)

Answer. I know the extent of John C. Hale's improvements in Hot Springs Valley. They are as follows: A barber-shop, occupied by L. G. Robbins; the Warren houses, known as the Warren houses; the house that Blake lives in; Dr. Hobson's office; the Hale house; two bath-houses; the houses occupied by Richard O'Donnell; Cozby's shoe-shop; a cigar-store, occupied by a German; a small butcher-shop, occupied by Stanton. The improvements are worth, in the aggregate, about six thousand dollars. Besides these there are houses standing
252 upon Hale's possession on the Hot Spring quarter-section, belonging either to Hale or his tenants, viz: Buildings occupied by William P. Walsh; a building occupied by C. N. Rocafellow; a building occupied by Messrs. Law & Moore; a building occupied by T. C. Crian; the hotel known as the Earl House; Mr. Statt's bath-house and buildings adjoining it; Mrs. Webster's millinery-shop; Mr. Allen's news-depot; Mr. Frank Horton's store-house; Mr. Kennedy's photograph gallery; a house occupied by Mr. Stanton; Dr. Ellsworth's house; all worth about thirteen thousand dollars.

W. R. BALLOU.

Sworn to and subscribed before me this 3d day of September, 1873.

L. D. BELDIN,
Commissioner.

Exhibit A to deposition of Phineas Barnes.

Filed before me this 2d day of September, 1873.

L. D. BELDIN,
Commissioner.

Know all men by these presents that we, John C. Hale and Milus H. Woods, are held and firmly bound unto Sarah Percifull and David Percifull in the sum of three thousand dollars, to which payment, well and

truly to be made, we hereby bind ourselves, severally and jointly, our several and joint heirs, executors, and administrators, firmly by these presents.

In testimony whereof we have hereunto set our hands and seals this the 16th day of November, A. D. 1840.

JOHN C. HALE. [SEAL.]
MILUS H. WOODS. [SEAL.]

Attest:
WARREN DUNHAM.
JOHN C. KUYKENDAL.

The condition of the above obligation is such, whereas the said above-bound John C. Hale and Milus H. Woods have this day purchased of the said Sarah & David Percifull certain improvements made by and under the control of John Percifull, described in part, and the residue by and under the control of the said Sarah & David Percifull, all the public lands of the United States designated, to wit, the west half of section thirty-three, in township No. (2) two south, of range No. (19) nineteen west of the fifth principal meridian, and subject to sale at Washington, Arkansas, together with possessory improvements, and all furniture thereunto in anywise appertaining; also, one-half of all the lands, waters, benefits, and privileges that may be acquired from or granted by the Government of the United States or that of the State of Arkansas, in consideration of said improvements and settlement-right, unto them the said John C. Hale and Milus H. Woods, their heirs and assigns; in consideration of which we, the said John C. Hale and Milus H. Woods, bind ourselves, heirs, executors, administrators, and assigns, severally and jointly, to discharge the above bond as follows, to wit, to pay, or cause to be paid, the sum of sixteen hundred and eighty dollars and four cents, the balance due on a judgment in favor of Messrs. Conway & Rayburn, and obtained against the said Sarah & David Percifull and Warren Dunham, at the Feburary term of the circuit court in and for Hot Spring County, Arkansas, A. D. 1840; and the further sum of one hundred and fifty dollars, on or before the ninth day of December, A. D. 1840; also, the residue of eleven hundred & sixty-nine dollars and ninety cents, on or before the first day of January, eighteen hundred and forty-three, the sum of two hundred dollars of which is to be paid at sight, provided the land on which David Percifull now resides is offered for sale previous to the above stipulated time; for all of which we bind ourselves, our heirs, executors, administrators, and assigns, for the faithful discharge of the several sums at the stipulated times of payment unto the said Sarah & David Percifull, their heirs, executors, administrators, and assigns; and whenever the said John C. Hale and Milus H. Woods do pay or cause to be paid the several sums in manner and form as prescribed, the above obligation to be null and void; but if default shall be made in the payment of any or either of the said sums on the days and times hereinbefore mentioned and appointed for payment thereof, respectively, then to be and remain in full force and virtue, and we, the said John C. Hale and Milus H. Woods, do firmly bind ourselves, heirs, executors, administrators, and assigns, severally and jointly, in the further sum of ten thousand dollars, payable and conditioned as follows:

That is, whenever the said Sarah & David Percifull makes or causes to be made a deed in fee-simple with a general warrantee to one-half of the one hundred and sixty acres of land which they may acquire from the Government of the United States, in consideration of settlement

and pre-emption right, on the west half of section thirty-three in township No. (2) two south, of range (19) nineteen west, and embracing the Hot Springs, by said settlement, the said half conveyed to the said John C. Hale and Miles H. Woods, their heirs and assigns, shall embrace one-half of the Hot Springs, so as to make that part thus conveyed to the said John C. Hale and Miles H. Woods to be equal in value to the residue of said land. And when the said conveyance shall have been made and confirmed unto the said John C. Hale and M. H. Woods, their heirs, executors, administrators, and assigns, then we, the said J. C. Hale and M. H. Woods, our heirs, executors, administrators, and assigns, are held and bound for the faithful payment of the above-mentioned ten thousand dollars; but should the said Sarah & David Percifull be unable to make the legal conveyance as above-mentioned by being prevented by other claims, or by the General Government, then and in *in* that case both parties are released so far as the conveyance and the sum of ten thousand without damage to either party, but should the said Sarah & David Percifull, their heirs, executors, administrators, and assigns, obtain a patent from the General Government for the said land and refuse to make or cause to be made the deed as above specified, then, and in that case, the said Sarah and David Percifull do agree, and their heirs and assigns are bound, to pay unto the said J. C. Hale and M. H. Woods, their heirs and assigns, the sum of fifty thousand dollars as a consideration for their services and money expended in establishing the said right of pre-emption; but if conveyed as above agreed, the fifty thousand dollars to be null and void. And the said Sarah and David Percifull do agree to pay unto the said J. C. Hale and M. H. Woods, their heirs and assigns, the value of all improvements which may be included in their part of said land above mentioned, which sum is
253 to be placed to the credit of the ten thousand dollars agreed on, to be paid by the said J. C. Hale and M. H. Woods, their heirs and assigns, as the consideration of the conveyance to be made or caused to be made by the said Sarah and David Percifull, their heirs and assigns.

Furthermore, be it expressly understood that the furniture and improvements thus sold and purchased and set forth in said contract shall be held by the said Sarah and David Percifull as security for the faithful discharge of three thousand dollars bond, though equally understood by the parties that the said furniture and improvements thus sold and purchased shall remain in the hands of the said Hale and Woods until all of the aforesaid bond shall have become due, which, if punctually paid, the said security is then null and void, but if not punctually paid, the aforesaid security remains in full force and virtue.

In testimony whereof we have hereunto set our hands and seals this the 16th day of November, A. D. 1840.

JOHN C. HALE. [SEAL.]
MILUS H. WOOD. [SEAL.]
her
SARAH + PERCIFULL. [SEAL.]
mark.
DAVID PERCIFULL. [SEAL.]

Attest:
WARREN DENHAM.
JOHN KUYKENDAL.

Received of John C. Hale and Milus H. Woods, on the within article of agreement, the sum of sixteen hundred and eighty dollars and four cents, as is therein specified and appointed to be paid or caused to

be paid by the said Hale & Woods, the balance due on a judgment in favor of Messrs. Conway & Rayburn, and obtained against Sarah and David Percifull and Warren Dunham, at the February term of the circuit court in and for Hot Springs County, Arkansas, A. D. 1840; also the further sum of one hundred and fifty dollars therein specified and appointed to be paid by the aforesaid Hale & Woods on or before the ninth day of December, A. D. 1840.

This the 9th day of December, A. D. 1840.

her
SARAH + PERCIFULL.
mark.
DAVID PERCIFULL.

Received of John C. Hale and Milus H. Woods, on the within article of agreement, the further sum of two thousand and nine dollars and eleven cents, this the 21st day of May, A. D. 1840.

her
SARAH + PERCIFULL.
mark.
DAVID PERCIFULL.

Received on the within article of agreement, from the hands of Milus H. Woods, the full sum of three hundred and seventy-three dollars & forty-two cents.

Filed for record 21st of May, 1841.

LAWSON RUNYAN, *Clerk.*

Clerk's fees:	Taking acknowledgment	0 50
	Recording and tax	2 80
		$3 30

Exhibit B to deposition of Phineas Barnes.

Filed before me this 2d day of Sept., 1873.

L. D. BELDIN,
Commissioner.

This article of agreement and bargain and sale, entered into this eleventh day of May, A. D. 1843, (eighteen hundred and fourty-three,) at the Hot Springs and State of Arkansas, by and between Henry M. Rector, of the city of Little Rock, of the first part, and John C. Hale, of Hot Springs and State aforesaid, of the second part, witnesseth: That whereas the parties here contracting are respectively interested in claims to the Hot Springs, the said Rector, by virtue of a New Madrid location upon a warrant issued by Frederick Boles, recorder of land-titles for the Territory of Missouri, to France Langlois, which said certificate was many years since located on said Hot Springs, as the United States platt will fully show, and the interest of the said Hale was derived from a purchase or article of agreement entered into by and between David and Sarah Percifull, of the first part, and Hale and Woods of the other part; which article of agreement bears date of the 16th (sixteenth) of November, A. D. eighteen hundred and fourty. Now, therefore, the aforesaid Henry M. Rector by these presents conveys to the said John C. Hale, his heirs and assigns, an undevided fourth part of his (the said Rector's) interest to the Hot Springs, or to the New Madrid claim aforesaid, for and in consideration of the one-half of the said John C. Hale's interest.

and pre-emption right, on the west half of section thirty-three in township No. (2) two south, of range (19) nineteen west, and embracing the Hot Springs, by said settlement, the said half conveyed to the said John C. Hale and Miles H. Woods, their heirs and assigns, shall embrace one-half of the Hot Springs, so as to make that part thus conveyed to the said John C. Hale and Miles H. Woods to be equal in value to the residue of said land. And when the said conveyance shall have been made and confirmed unto the said John C. Hale and M. H. Woods, their heirs, executors, administrators, and assigns, then we, the said J. C. Hale and M. H. Woods, our heirs, executors, administrators, and assigns, are held and bound for the faithful payment of the above-mentioned ten thousand dollars; but should the said Sarah & David Percifull be unable to make the legal conveyance as above-mentioned by being prevented by other claims, or by the General Government, then and in *in* that case both parties are released so far as the conveyance and the sum of ten thousand without damage to either party, but should the said Sarah & David Percifull, their heirs, executors, administrators, and assigns, obtain a patent from the General Government for the said land and refuse to make or cause to be made the deed as above specified, then, and in that case, the said Sarah and David Percifull do agree, and their heirs and assigns are bound, to pay unto the said J. C. Hale and M. H. Woods, their heirs and assigns, the sum of fifty thousand dollars as a consideration for their services and money expended in establishing the said right of pre-emption; but if conveyed as above agreed, the fifty thousand dollars to be null and void. And the said Sarah and David Percifull do agree to pay unto the said J. C. Hale and M. H. Woods, their heirs and assigns, the value of all improvements which may be included in their part of said land above mentioned, which sum is
253 to be placed to the credit of the ten thousand dollars agreed on, to be paid by the said J. C. Hale and M. H. Woods, their heirs and assigns, as the consideration of the conveyance to be made or caused to be made by the said Sarah and David Percifull, their heirs and assigns.

Furthermore, be it expressly understood that the furniture and improvements thus sold and purchased and set forth in said contract shall be held by the said Sarah and David Percifull as security for the faithful discharge of three thousand dollars bond, though equally understood by the parties that the said furniture and improvements thus sold and purchased shall remain in the hands of the said Hale and Woods until all of the aforesaid bond shall have become due, which, if punctually paid, the said security is then null and void, but if not punctually paid, the aforesaid security remains in full force and virtue.

In testimony whereof we have hereunto set our hands and seals this the 16th day of November, A. D. 1840.

JOHN C. HALE. [SEAL.]
MILUS H. WOOD. [SEAL.]
her
SARAH + PERCIFULL. [SEAL.]
mark.
DAVID PERCIFULL. [SEAL.]

Attest:
WARREN DENHAM.
JOHN KUYKENDAL.

Received of John C. Hale and Milus H. Woods, on the within article of agreement, the sum of sixteen hundred and eighty dollars and four cents, as is therein specified and appointed to be paid or caused to

be paid by the said Hale & Woods, the balance due on a judgment in favor of Messrs. Conway & Rayburn, and obtained against Sarah and David Percifull and Warren Dunham, at the February term of the circuit court in and for Hot Springs County, Arkansas, A. D. 1840; also the further sum of one hundred and fifty dollars therein specified and appointed to be paid by the aforesaid Hale & Woods on or before the ninth day of December, A. D. 1840.

This the 9th day of December, A. D. 1840.

her
SARAH + PERCIFULL.
mark.
DAVID PERCIFULL.

Received of John C. Hale and Milus H. Woods, on the within article of agreement, the further sum of two thousand and nine dollars and eleven cents, this the 21st day of May, A. D. 1840.

her
SARAH + PERCIFULL.
mark.
DAVID PERCIFULL.

Received on the within article of agreement, from the hands of Milus H. Woods, the full sum of three hundred and seventy-three dollars & forty-two cents.

Filed for record 21st of May, 1841.

LAWSON RUNYAN, *Clerk.*

Clerk's fees: Taking acknowledgment	0 50
Recording and tax	2 80
	$3 30

Exhibit B to deposition of Phineas Barnes.

Filed before me this 2d day of Sept., 1873.

L. D. BELDIN,
Commissioner.

This article of agreement and bargain and sale, entered into this eleventh day of May, A. D. 1843, (eighteen hundred and fourty-three,) at the Hot Springs and State of Arkansas, by and between Henry M. Rector, of the city of Little Rock, of the first part, and John C. Hale, of Hot Springs and State aforesaid, of the second part, witnesseth: That whereas the parties here contracting are respectively interested in claims to the Hot Springs, the said Rector, by virtue of a New Madrid location upon a warrant issued by Frederick Boles, recorder of land-titles for the Territory of Missouri, to France Langlois, which said certificate was many years since located on said Hot Springs, as the United States platt will fully show, and the interest of the said Hale was derived from a purchase or article of agreement entered into by and between David and Sarah Percifull, of the first part, and Hale and Woods of the other part; which article of agreement bears date of the 16th (sixteenth) of November, A. D. eighteen hundred and fourty. Now, therefore, the aforesaid Henry M. Rector by these presents conveys to the said John C. Hale, his heirs and assigns, an undevided fourth part of his (the said Rector's) interest to the Hot Springs, or to the New Madrid claim aforesaid, for and in consideration of the one-half of the said John C. Hale's interest,

Boles

acquired as above stated, to the north half of section thirty-three in township two south, of range nineteen west of the fifth principle meridian, to have and to hold all and every of the privileges, advantages, rents, and pr'fits ac'ruing thereon to him, the said Henry M. Rector, his heirs and assigns, forever.

And the said Rector hereby agrees to pay to the said Hale the one-half of the valuation of the buildings in the Hot Springs Valley, included, however, in the following boundaries: To commence at the northeast corner of said Hale's present garden; thence west to the west bound'ry of said quarter-section; thence north with said boundery to the divisional line of Hale; thence due east across Hot Springs Creek; thence south to a point as far south as the point beginning; thence west to the begin'ing; the aforesaid value of the buildings to be ascertained and established by disenterested and suitable persons, each of the parties here contracting to choose one of each persons, and those so choosed to select a third; and the Rector hereby agrees to pay to the said Hale five hundred dollars at the expiration of fifteen months from the date hereof, and the balance in two equal instalments two and three years from the date of this instrument. And the parties each agree with the other that there is no judgment or mortgage now in existence which will effect the interest here conveyed.

And the party of the first part agrees that the buildings her'in spoken of are to be and remain as security for the payment of the money which said Rector is to pay for them; as witness our hands and seals at Hot Springs the day and date above written.

HENRY M. RECTOR. [SEAL.]
JOHN C. HALE. [SEAL.]

Attest:
E. CARELEY.
W'M P. STRICKLAND.

254 NOTE.—The five hundred dollars, as well as the other payments hereinbefore spoken of, are in consideration of the buildings.

HENRY M. RECTOR.
JOHN C. HALE.

Attest:
E. CARELEY.
WM. P. STRICKLAND.

This day personally appeared Henry M. Rector and John C. Hale before me, an acting justice of the peace in and for the county of Hot Spring and State of Arkansas, and several'y acknowledged that they signed, sealed, and executed the foregoing instrument of writing for the uses and purposes therein naimed, as witness my hand and seal at Hot Springs this day of , A. D. 1843.

[SEAL.]

Received on the within eighty-four dollars by that amount being settled with Jno. C. Kuykendall on the 11th of July, 1843, by Henry M. Rector.

J. C. HALE.

(Indorsed:) Agreement between Hale & Rector. Exhibit B to deposition of Phin'as Barnes. Filed before me this 2nd day of September, 1873. L. D. Beldin, commissioner.

Exhibit C to deposition of Phineas Barnes.

Filed before me this 2d day of September, 1873.

L. D. BELDIN,
Commissioner.

STATE OF ARKANSAS,
Hot Spring County, ss:

Know all men by these presents that I, David Percifield, citizen of the county of Hot Spring and State of Arkansas, have this day bargained, sold, transferred, and delivered, and by these presents do bargain, sell, and deliver unto John C. Hale, likewise of said county and State, his heirs and assigns forever, all of my right, title, interest, and claim in and unto a certain tract or parcel of land situate, lying, and being in the aforesaid county and State, known as the Hot Spring tract, and being known and designated as the southwest quarter of section thirty-three, (33,) township two (2) south, of range (19) nineteen west of the fifth principal meridian, in the district of lands subject to sales at Washington, Arkansas, said tract being the same owned and held by me as the legal heir and lawful representative of my late father, John Percifull, deceased; and it is my request and desire that patent may issue in the name of the said John C. Hale, his heirs and legal representatives, for the same.

In consideration whereof I do hereby acknowledge the receipt in full for the same, the sum of $8,000 cash in hand, to me paid by him, the said John C. Hale, before the sealing & signing of this deed.

And I, the said David Percifield, do hereby warrant and guarantee forever unto him, the said John C. Hale, as aforesaid, against the claim of all persons claiming by, through, or from me in any manner whatever; and further, from this day henceforth, do place and consider him, the said John C. Hale, now in the possession of all the premises aforesaid, together with all and singular the appurtenances and improvements thereto attached, in any and every way whatever.

Witness my hand and seal at Hot Springs this the 10th day of January, 1848.

DAVID PERCIFIELD. [SEAL.]

Witnesses:
LORETTA T. HALE,
WILLIAM G. RECTOR.

COUNTY OF HOT SPRING, *ss:*

Be it remembered that on this 10th day of January, 1848, personally appeared David Percifull, the grantor to the above and foregoing deed, before the undersigned justice of the peace of Hot Spring County and State of Arkansas, and acknowledged the same as for his act and deed, sign and seal, for the consideration & purposes therein mentioned and set forth, and I so certify.

Attest:

LAMSON RUNYAN, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

Be it remembered that on this the 10th day of January, 1848, personally appeared Elizabeth D. Percifull, wife of David Percifull, whose name appears upon, and is subscribed to, the annexed and foregoing

deed, before the undersigned justice of the peace, and, being examined apart from her said husband, acknowledged and declared that she has signed and conveyed her right of dower in the premises therein mentioned, freely and of her own accord, without any force or compulsion of her said husband, and I so certify.

CHARLES BURKS, *J. P.*

Witness my hand & seal at Hot Springs, this 10th Jan'y, A. D. 1848.

ELIZABETH PERCIFULL.

STATE OF ARKANSAS,
County of Hot Spring:

I, Wiley Patterson, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record, in my office, on the 14th day of January, A. D. 1848, and the same is now duly recorded in record-book B, pages 284 & 285.

In testimony whereof I have hereto set my hand and affixed my official seal, at Rockport, this 14th day of Jan'y, A. D. 1848.

[L. S.] WILEY PATTERSON,
Clerk and Ex-officio Recorder.

Clerk's fee, $1.66.

W. PATTERSON, *Clerk.*

Filed for record, in my office, on the 14th day of January, A. D. 1848.

WILEY PATTERSON, *Clerk.*

N. No. 7.

(Indorsed:) Deed. David Percifull to John C. Hale, Hot Springs. Exhibit C to the deposition of Phineas Barnes. Filed before me this 2d day of September, 1873. L. D. Beldin, commissioner.

255 This is Exhibit A to the deposition of H. A. Whittington.

L. D. BELDING,
Commissioner.

Know all men by these presents that I, L. Belding, of the county of Hot Springs and Territory of Arkansas, do acknowledge and make known that I, the said Belding, did lease the buildings and improvements at the Hot Springs of John Perciful, and acknowledge his right to said improvements; and that I have now, before this date, leased the said buildings and all the privileges (except three cabins, two of which are not mine) to Richard C. Hawkins, until the 1st day of January, 1833; then and at which time I, the said Belding, agree and bind myself to deliver all and every part of the buildings and improvements at said Hot Springs that I have ever had, in the same condition as the said Hawkins is to deliver to me, unto John Perciful, if he demands the same; and that I have no pretentions to the improvement of said springs except under the claim of said John Perciful.

Given under my hand this 2nd day of April, 1831.

L. BELDING.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that Warren Dunham this day appeared in the county court, in session at Hot Spring, and, being duly sworn for the

purpose, on oath deposeth and saith that the annexed and foregoing instrument of writing is in the handwriting of L Belding, whose name subscribed thereto; and the said L. Belding did, within a short time after the date thereof, prof'er to acknowledge the same as for his act and deed for the purposes therein set forth; and this he, the deponent, was at that time the acting judge of Hot Spring County.

And further this deponent saith not.

his
WARREN + DUNHAM.
mark.

Sworn and subscribed to in open court this 5th day of January, A. D. 1842.

Attest:

LAWSON RUNYAN, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that H. A. Whittington and Cumberland Polk this day appeared in open court, of the county of Hot Spring, and on their oaths depose and say that the annexed and foregoing instrument of writing is, to the best of their knowledge and belief, in the handwriting of L. Belding, whose name appears upon and is subscribed thereto; that they have often seen him write.

And further these deponents say not.

H. A. WHITTINGTON.
C. POLK.

Sworn and subrcribed to, in open court, this 5th day of January, 1842.

LAWSON RUNYAN, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyan, clerk of the circuit court and ex-officio recorder within and for the county of Hot Spring and State aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 10th day of January, eighteen hundred and forty-two; and the same is now duly recorded in record-book A of deeds and mortgages, pages 285, 286, 287.

In testimony whereof I have hereunto set my hand, as such clerk, and affixed the seal of my office, at Hot Springs, this 10th day of January, A. D. eighteen hundred & forty-two.

SEAL.

LAWSON RUNYAN,
Clerk and Ex-officio Recorder.

(Indorsed:) Exhibit A to dep. H. A. Whittington. Filed before me this 3d day of September, 1873. L. D. Belding, commissioner.

Deposition of Lee Fullerton, for claimant, taken at Arkadelphia, Ark., on the 25th day of August, A. D. 1873.

First general interrogatory by the judge. Please to state your name, your occupation, your age, your place of residence for the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. Leander Fullerton is my name. My occupation is farming. I will be forty-nine years of age on the 3d day of March next. I live in the northwest part of Greenville Township, Clark County, Ark. I have lived there nearly four years last past. I have no interest, either direct or indirect, in the claim of John C. Hale against the United States. I am in no way related to John C. Hale, the claimant herein.

Question. Were you acquainted with Adam Stroud in his life-time? Is he living or dead; and, if dead, when and where did he die?

Answer. Yes, sir; I was. He is dead. He died near ten years ago in Clark County, State of Arkansas.

Question. How do you know that he is dead?

Answer. I shaved him after his death.

Question. How long have you lived in Clark County, Arkansas? Are you moderately well acquainted with the people? And do you know of any other man by the name of Adam Stroud that now or has heretofore lived in the county of Clark?

A. I have lived in Clark County for twenty-five years. I am moderately well acquainted with the people of the county, and I do not know of any other man by the name of Adam Stroud that now or heretofore lived in the county of Clark.

Question. What was Adam Stroud's age at the time of his death?

Answer. I cannot exactly tell; think he was between sixty and seventy years *years* of age.

Question. Do you know anything about his giving testimony relative to the Hot Springs, between Hale and others?

256 Answer. I know nothing of my own knowledge.

Question. Do you know of any other matter relative to the claim in question? If you do state it.

Answer. I do not.

(Objection. The attorney for the United States objects to all the above testimony relative to the death of Adam Stroud, as being irrelevant and immaterial.)

his
LEANDER + FULLERTON.
mark.

Sworn and subscribed to before me this twenty-fifth day of August, 1873.

GEORGE A. KINGSTON,
Judge Fourteenth Judicial District, Arkansas.

The deposition of Samuel R. Stroud, for claimant, taken at Arkadelphia, Ark., on the 25th day of August, A. D. 1874.

First general interrogatory by the judge. Please to state your name, your occupation, your age, your place of residence for the last year; whether you have any interest, and if any, what interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is Samuel R. Stroud; my occupation is farming; my age is fifty years; my place of residence for the last year has been in Anderson Township, Clark County and State of Arkansas; I have no interest, either direct or indirect, in the claim that is the subject of inquiry; I am in no way related to the claimant.

Being interrogated by solicitors for claimant, the witness says:

Question. Were you related to Adam Stroud; if so, how; and when and where did you last see him?

(Objected to by solicitor for the United States, on the ground of irrelevancy and immateriality to the issue.)

Answer. I was related to him; he was my father; I last saw him in the summer of 1863, at his residence, in Clark County, Arkansas.

Q. What was about his age when you last saw him; was he sick or well; and is it known to his family that he died almost immediately thereafter?

(Objected to *for* solicitor for the United States for the reasons named in the former objection; and for the further reason that the latter part of the question is leading.)

Answer. He was about seventy-three years of age; he was sick; I was sent for, supposing he would die; it is known to his family that he died almost immediately thereafter.

Question. Where were you born?

Answer. I was born in Clark County, Arkansas.

Have you lived in that county all your life?

Answer. I have.

Question. State if you know of any other man that now or has heretofore lived in Clark County by the name of Adam Stroud.

Answer. I have never known a man in Clark County by the name of Adam Stroud except my father.

Question. If your father lived on any public road, on the 21st day of October, (1853,) eighteen hundred and fifty-three, state what the road was usually called.

Answer. I am not positive whether he was living on any public road at that time or not, but if he was it was known as the military road leading from Little Rock to Washington, Ark.

Question. In what county did your father live, and, for the greater portion of the time, where did he live since you can recollect?

Answer. He has lived ever since I can recollect in Clark County, Arkansas, and on the military road up to a few years prior to his death.

Question. Were you acquainted with Lawrence G. Evans, formerly county and probate judge of Clark County; and, if so, is he by common reputation living or dead?

(Objected to by solicitor for the United States, as immaterial and calling for hearsay evidence.)

Answer. I knew him in his life-time; and, by common reputation, he has been dead for a number of years.

(The solicitor for the United States objects to all that part of the foregoing testimony relating to the death of Adam Stroud and Lawrence G. Evans as not bring relevant to the issue.)

Question. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

SAML. R. STROUD.

Sworn and subscribed to before me this 25th day of August, 1873.

GEO. A. KINGSTON,
Judge Fourteenth Judicial District, Arkansas.

The deposition of S. W. Crosnoe, for claimant, taken at Arkadelphia, Ark., on the 25th day of August, A. D. 1873.

(Samuel W. Crosnoe being introduced as a witness on behalf of the plaintiff, John C. Hale, and before being sworn objection was raised by the solicitor for the United States to his testifying in this behalf for the following reasons, viz: That the name of the witness does not appear

upon the notice served upon the attorneys for the United States to take testimony of witnesses at this time and place.)

SAMUEL W. CROSNOE, being duly sworn, deposes and says as follows:

First general question asked by judge. Please state your name, your occupation, your age, your place of residence for the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what manner or degree, you are related to the claimant.

Answer. Samuel W. Crosnoe is my name. My occupation is carpentering. My age is fifty-one years. My place of residence is Hempstead County, Arkansas. I have no interest, either directly or indirectly, in the subject of this claim. I am not in any way related to the claimant, John C. Hale.

Being interrogated by solicitors for John C. Hale, the witness says:

Question. Were you acquainted with Wm. H. Etter? Where did he reside? How long were you acquainted with him? Is he living or
257 dead? And if dead, how do you know that fact; and when and where did he die?

Answer. I was acquainted with Wm. H. Etter. He resided in Washington, Hempstead County, Ark. I knew him some fifteen years. He is dead. I waited on him during his sickness, laid him out, and buried him. He died at Brownsville, Texas, in April, 1865.

Question. How did you come to be with Etler, and why were you both from home?

Answer. Etler was the agent for the State of Arkansas to procure cotton-cards, medicines, and stationery, and I was detailed to go with him.

(The above question and answer is objected to by the solicitor for the United States, for the reason that the same is irrelevant.)

Question. Were you acquainted with George Conway? Where did he reside? How long did you know him? Is he living or dead? If dead, how do you know that fact; and when and where did he die?

Answer. I knew George Conway. He resided near Washington, Hempstead County, Ark. I knew him about thirteen years. He is dead. I was at his burial. He died at his residence near Washington, in April, 1863.

Question. What was George Conway's occupation?

Answer. He was a lawyer by profession.

Question. Were you well acquainted in Washington, Ark.; and, if so, was there any other attorney by the name of Conway who resided at or near Washington from 1847 until 1863?

Answer. I was well acquainted in Washington, Ark., and I knew no other attorney than the deceased by the name of Conway during the period mentioned.

Question. Were you acquainted with Bernard F. Hempstead? Where did he reside? How long did you know him? Is he living or dead? And, if dead, how do you know that fact and when and where did he die?

Answer. I knew Bernard F. Hempstead? He resided in Washington, Hempstead County, Ark. I knew him some twenty years. He is dead. I was not at his burial, but saw his obituary, and heard his death spoken of by the community of Washington. He died at his residence in Washington, Ark., in the fall or winter of 1871.

(Objected to by solicitor for the United States, for the reason that the same is irrelevant and hearsay.)

Question. What has become of Bernard F. Hempstead's widow? Is she recognized as a married woman or a widow?

Answer. She is living at the residence of B. F. Hempstead, and is recognized as his widow.

(The above question and answer objected to by solicitor for United States, for the reason of irrelevancy and the answer being hearsay.)

Question. Did you know of any other person in Hempstead County, Arkansas, by the name of Bernard F. Hempstead during the last twenty-six years?

Answer. I do not.

Question. Do you know of Bernard F. Hempstead occupying any position in the land-office at Washington, Ark.? If so, state what.

Answer. Bernard F. Hempstead was receiver, and Wm. H. Etter, deceased, was register in the land-office at Washington.

(The solicitor for the United States objects to all that part of the foregoing testimony which relates to the death and circumstances of William H. Etter, George Conway, and Bernard F. Hempstead, as being immaterial to the issue in this case.)

Question. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

S. W. CROSNOE.

Sworn and subscribed to before me this 25th day of August, 1873.

GEO. A. KINGSTON,
Judge Fourteenth Judicial District of Arkansas.

The deposition of R. L. Phillips, for claimant, taken at Arkadelphia, Ark., on the 25th day of August, A. D. 1873.

First general interrogatory by the judge. Please state your name, your occupation, your age, your place of residence for the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. Robert L. Phillips is my name. I am a farmer by occupation. I am sixty-seven years of age. My place of residence for the last year past is Washington, Hempstead County, Ark. I have no interest, either direct or indirect, in the claim in controversy. I am in no way related to John C. Hale.

Question. Are you acquainted with William H. Etter? When did you become acquainted with him? Where did he reside? When and where did you last see him? Did he at any time hold any office in the United States land-office at Washington, Ark.; and, if so, what office, and when and for what time did he hold it?

Answer. I was acquainted with William H. Etter from 1841 to 1865. He resided during that time at Washington, Hempstead County, Ark. I last saw him in the winter of 1864–'65, just before his departure for Mexico or Texas. He was register of the United States land-office at Washington, under the administration of Taylor or Fillmore. I think he held it for four years.

(Objected to by solicitor for the United States as immaterial.)

Question. How long have you lived in Washington, Hempstead County?

Answer. About thirty-seven years.

Question. Who has control of Wm. H. Etter's estate; and how long has he had control of it?

Answer. John P. Etter, I believe—I can't be positive—as executor of

said estate, and, I think, since the death of his father, which, by the records, occurred on the 29th day of April, 1865.

(Objected to by solicitor for the United States as hearsay, irrelevant, and nothing to do with this case, and it not being the best evidence of the alleged death of Wm. H. Etter.)

Question. What records do you refer to?

Answer. To the records of the will, and reports of sales and orders of the court in reference to the estate.

(Objected to by solicitor for the United States for the reasons mentioned in the last above objection.)

Question. Does the whole community in which Wm. H. Etter lived, prior to 1865, regard him as dead, without doubt?

(Objected to by solicitor for the United States as leading, and calls for hearsay testimony.)

258 Answer. Yes, sir; they do.

Question. Was you acquainted with George Conway; where did he live; how long was you acquainted with him; is he living or dead; if dead, how do you know that fact, and when and where did he die?

Answer. I did know George Conway. He lived in Washington, or near Washington, Hempstead County, Ark. I knew him from 1836 up to his death in 1863. He died near Washington, Hempstead County. I visited him when he was sick. I was there the evening he died, and helped to bury him.

Question. Was there any other attorney in or near Washington, Hempstead County, by the name of Conway, from 1845 to 1863, except George Conway?

Answer. There was no other.

Question. Did you know Bernard F. Hempstead; where did he live; how long did you know him; is he living or dead; if dead, how do you know that fact; and when and where did he die?

Answer. I knew Bernard F. Hempstead. He lived in Washington, Hempstead County, Ark. I knew him between twenty-five and thirty years. He is dead. I know that he is dead because I attended him during his sickness, helped lay him out, and attended at his burial. He was my near neighbor. He died the 18th day of December, 1871, or 1872; I think in 1872.

Question. Do you know of Bernard F. Hempstead holding any position in the United States land-office at Washington, Hempstead County, and, if so, how long did he hold it?

Answer. Yes, sir; he was receiver, and was appointed in the spring of 1849. He held it for four years.

(The solicitor for the United States objects to all that part of the foregoing testimony which relates to the alleged death of William H. Etter, George Conway, and Bernard F. Hempstead, on the ground that it is immaterial to this case whether they are dead or living.)

Question. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

R. L. PHILLIPS.

Sworn and subscribed to before me this 25th day of August, 1873.

GEO. A. KINGSTON,
Judge Fourteenth Judicial District Arkansas.

The deposition of Amos H. Bassett, for claimant, taken at Arkadelphia, on the 25th day of August, A. D. 1871.

(Amos H. Bassett being produced as a witness on behalf of the plaintiff, the solicitor for the United States objects to the witness testifying in this behalf, for the following reason, viz: Because his name does not appear upon the notice served upon the attorneys for the United States, to take testimony at this time and place.)

AMOS H. BASSETT, being duly sworn, deposes and says as follows:

First general question by the judge. Please state your name, your occupation, your age, your place of residence for the last year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of controversy and inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is Amos H. Bassett; I am county clerk and ex-officio clerk of the circuit court of Hot Spring County, Arkansas, and have been since July, 1868; I am thirty-eight years of age, and have lived for the last year past at Rockport, Hot Spring County, Ark.; I have no interest, directly or indirectly, in the claim in controversy, which is the subject of this inquiry; I am in no way related to John C. Hale, the claimant.

The witness being interrogated by the solicitor of the plaintiff, states as follows:

Question. Since you have been clerk of the courts of Hot Spring County, has any disaster happened to the clerk's office; and, if so, what was that disaster, and what was the result of it?

(Objected to by solicitor for the United States as not being relevant to the issue in this cause.)

Answer. The clerk's office was destroyed by fire by the burning of the court-house on the night of the 23d of January, 1873; there were but very few papers saved; the record was saved, but the papers on file in the old cases were destroyed.

Question. Do you know anything about a bundle of papers known as the Hot Springs case, wherein John C. Hale, the heirs of Ludovicus Belden, Henry M. Rector, and others were parties, formerly pending in the Hot Springs circuit court in chancery, and taken by appeal to the supreme court of this State? If so, tell what has become of them.

(Objected to by the solicitor for the United States as irrelevant.)

Answer. I know they were in the office and consumed by the fire.

The witness being cross-examined by solicitor for the United States, answers as follows:

Cross-question. State what records of the office were preserved from the fire, that contained any records or memorandum of the cases referred to in your direct examination.

Answer. The entire records of the court, circuit and chancery, were preserved; also, all the records of the recorder's office, except that of wills, were preserved, including the record of deeds, in which is recorded the perpetuated evidence in the Hot Springs cases, as well as several other papers referring to the same.

Second general question by the judge. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

AMOS H. BASSETT.

Sworn and subscribed to before me on this 26th day of August, 1873.

GEO. A. KINGSTON,
Judge Fourteenth Judicial District of Arkansas.

The deposition of E. S. Lockett, for claimant, taken at Hot Springs, Ark., on the 27th day of October, A. D. 1873.

First general interrogatory by the commissioner. Please state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indi-
259 rect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is Enoch S. Locket. I am a farmer by occupation. I am forty years of age. I have resided for the last year in what is now Garland County. I have no interest in the world in the claim which is the subject of inquiry herein. I am not related to the claimant, John C. Hale.

Being interrogated by the claimant, John C. Hale, the witness says:

Question. How long have you been acquainted in this county, in this neighborhood?

Answer. Since the spring of 1841.

Question. Did you ever become acquainted with Warren Dunham?

Answer. Yes, sir; I was acquainted with him.

Question. Did you ever know more than one man called Warren Dunham in this neighborhood?

Answer. No, sir; I don't think I ever did.

Question. Was or was he not generally called Judge Dunham?

Answer. Yes, sir; he generally went by that name.

Question. Is he now living or dead?

(This question is objected to by the solicitor for the United States as being irrelevant and immaterial.)

Answer. He is dead.

Question. How do you know that fact?

Answer. I was standing by his bedside when he died. To the best of my recollection, he died in the winter of 1842 or 1843.

(The solicitor for the United States objects to all of the foregoing testimony which relates to the death of Warren Dunham as being irrelevant and immaterial.)

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not know of any.

ENOCH S. LOCKETT.

Sworn to and subscribed before me this 27th day of October, 1873.

L. D. BELDIN,
Commissioner of the Court Claims.

The deposition of Eli Bledsoe, for claimant, taken at Hot Springs, Ark., on the 27th day of October, A. D. 1873.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant, John C. Hale.

Answer. My name is Eli Bledsoe. I am a farmer. I have resided the past year in Montgomery County, Askansas. I am sixty years old. I have no interest at all in the claim which is the subject of inquiry herein. I am not related to the claimant, John C. Hale, in any manner.

Being interrogated by the claimant, John C. Hale, the witness says:

Question. How long have you lived in Montgomery and Hot Spring Counties, in this State?

Answer. I have lived in the two counties for thirty-eight years.

Question. Did you ever know a man by the name of Jonathan Irons?

Answer. Yes, sir; I did.

Question. Did you ever know of more than one man by the name of Jonathan Irons?

Answer. No, sir; I did not.

Question. Where did the Jonathan Irons that you became acquainted with reside?

Answer. In Montgomery County, close by me, within about one mile and a half from my home.

Question. How long were you acquainted with him?

Answer. I was acquainted with him for about thirty years.

Question. Is he living or dead?

(This question is objected to by the solicitor for the United States as being irrelevant and immaterial.)

Answer. He is dead.

Question. How do you know that fact?

Answer. I helped to bury him.

Question. Did you see him after he was dead?

Answer. I did see him after he was dead.

(The solicitor for the United States objects to the above testimony relating to the death of Jonathan Irons as being irrelevant, immaterial, and inadmissable.)

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not know of anything else relative to the claim in question.

his
ELI + BLEDSOE.
mark.

Sworn to and subscribed before me this 27th day of October, 1873.

L. D. BELDIN,
Commissioner of Court of Claims.

The deposition of John C. Hale, for claimant, taken at Hot Springs, Ark., on the 27th day of October, A. D. 1873.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is John C. Hale. I am keeping a public-house at Hot Springs, Ark. I am seventy-three years of age. I have resided in Hot Springs (now Garland) County for the past year. I have an interest in this claim; am one of the claimants to the southwest quarter of section thirty-three, township two south, range nineteen west, and am the party complainant in this suit.

Question. Is the quarter-section of land on which William H. Gaines, "one of the claimants," now lives the same that Ira T. Grant cultivated for L. Belding in 1829, as stated in the deposition of Ira T. Grant which was taken in this cause on August 28, 1873?

Answer. It is the same quarter section, and is described in the
260 public survey and township-plat as township three south of the base-line, range eighteen west, and the full southwest quarter of section eighteen, and entered by Lydia Belding in 1841; and I hereby offer the certified copies of deed of conveyance by L. Belding to Johnathan Bassett of the said fractional quarter section; and also of a deed of gift from Johnathan Bassett to Lydia Belding of the same fractional quarter section; and also a certified copy of the tract-book of the auditor of the State of Arkansas, showing that the said fractional quarter-section was entered by Lydia Belding, and the date thereof, and ask that it be read as a part of this deposition.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do state it.

Answer. Nothing more than as I have stated and shown by my exhibits that I desire to state at this time.

JOHN C. HALE.

Sworn to and subscribed before me this 27th day of October, 1873.

L. D. BELDIN,
Commissioner of the Court of Claims, &c.

Filed as Exhibit A to the deposition of John C. Hale, taken on October 27, 1873.

L. D. BELDIN,
Commissioner.

Know all men by these presents that, for and in consideration of the sum of fifty dollars to me in hand paid well and truly by Johnathan Bassett, of the county of Hot Spring, the receipt whereof is hereby acknowledged, I have this day sold and delivered unto said Bassett, his heirs and assigns, all of my right & title to an improvement & right of pre-emption of and to a certain place where said Bassett now lives, & known as the place settled by Isaac Cates, and being the same place on which I have heretofore sold a life estate to said Bassett and his wife, and that I now relinquish said property to the use and benefit of said Bassett & his heirs forever.

In witness whereof I have hereunto set my hand and seal this 7th of June, 1832.

L. BELDING. [SEAL.]

Witnesses present:
A. N. SABINE.
DAVID BASSETT.

TERRITORY OF ARKANSAS,
County of Hot Spring, June 7th, 1832.

PROBATE.

This day personally appeared before me L. Belding, and acknowledged the within to be his voluntary act and deed, for the uses and purposes therein named, and for no other.

Done before me,

A. N. SABINE, ESQ.,
Presiding Justice of the County Court of Hot Spring County.

TERRITORY OF ARKANSAS,
County of Hot Spring, sct.:

I, Richard C. Hawkins, clerk of the circuit court and ex-officio recorder for the county aforesaid, do certify that the annexed and foregoing instrument of writing was filed for record in my office, on the 11th day of June, A. D. 1832, and the same is now duly recorded in record-book deeds & mortgages, page 6.

In testimony whereof I have hereunto set my hand and affixed the seal of my office, at Hot Springs, the 11th day of June, in the year of our Lord one thousand eight hundred and thirty-two, and of the Independence of the United States the fifty-sixth.

[L. S.] RICHARD C. HAWKINS,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, county clerk and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing is a true and correct copy of the record of deeds as therein set forth, and the same as appears of record on pages 7 & 8 of record-book A.

In testimony whereof I have hereto set my hand and affixed my official seal, on this 11th day of August, 1873.

[SEAL.] A. H. BASSETT,
Clerk.

Filed as Exhibit B, to the deposition of John C. Hale, taken on October 27, 1873.

L. D. BELDIN,
Commissioner.

TER'ITORY OF ARKANSAS,
County of Hot Spring, Township of Hot Spring, ss:

Deed of gift and conveyance.

Be it remembered that I, Jonathan Bassett, being low in bodily health, but in the full enjoyment of my mental faculties, and being admonished of the uncertainty of human life, I make the following disposal of the property hereinafter named, to wit:

My negro girl named Jin, and my negro man named Adam, I give to my beloved and dutiful daughter, Lydia Belding, who is to have and to hold the said negroes as her own undisputed private property with the benefit of the tenure under which I have heretofore held the said slaves, together with bills of sale signed over to my daughter, Lydia, which warrants and defends said slaves against all other claims. Moreover, I give to my daughter, Lydia Belding, the possession and premises whereon I now reside, and have resided during the last six years. Said premises being mine by purchase of Ludovicus Belding, on the seventh day of June, A. D. 1832, and deed recorded in the office, on the 11th day of June, A. D. 1873.

And it is my good will and pleasure to give the above-named premises to *to* my daughter, Lydia Belding, and to her heirs forever, to have and to hold the same, with the deeds of conveyance to me, signed over to my daughter, Lydia, and her heirs forever, to them, that they may convey the same, all and singular as I could have done had I have lived forever.

The sole intention of the above instrument of writing is to vest the

entire right of the two negroes therein named, and the possession whereon I reside.

In testimony whereof I have hereunto set my hand and seal
261 this 7th day of October, in the year of our Lord eighteen hundred and thirty-five.

JONATHAN BASSETT. [L. S.]

Attested:
IRA N. SABIN.

TERRITORY OF ARKANSAS,
County of Hot Spring:

I, Ira A. Sabin, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 3d day of December, in the year of our Lord 1835, and the same now duly recorded in record-book of deeds & mortgages, pages 33 & 34.

In testimony whereof I have hereunto set my hand and affixed the seal of my office, at Hot Springs, 3d day of December, in the year of our Lord one thousand eight hundred and thirty-five, and of the Independence of the United States the sixtieth.

IRA A. SABIN,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

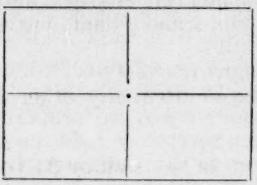
I, A. H. Bassett, county clerk & ex-officio recorder within and for the county of Hot Spring, State of Arkansas, do hereby certify that the above and foregoing is a true copy from the record, found in book A of deeds, pages 33 & 34.

In testimony whereof I hereto set my hand and affix the seal of office at Rockport, this 22d day of August, 1873.

[SEAL.] A. H. BASSETT, *Clerk.*

TOWNSHIP 3 SOUTH, RANGE 18 WEST.

Sect.



Extract from tract-book furnished by auditor.

By whom entered.	Parts of section.	No. of sect.	No. of acres.	Year entered.
Lydia Belding	N. W. N. W	17	40	1849
Lydia Belding	S. W	18	154 34/100	1841
Same	W. ½ S. E	18	80	1841
Lydia Belding	E. ½ S. E	18	80	1847

STATE OF ARKANSAS,
County of Hot Spring:

I, A. H. Bassett, county and ex-officio clerk of the circuit court for said county, do hereby certify that the above is a true copy from the record of entered lands as furnished by auditor of state.

Witness my hand and seal of said court this 22d day of August, 1873.

[SEAL.] A. H. BASSETT, *Clerk.*

The deposition of John Samuels, for claimant, taken at Decatur, Texas, on the 18th day of April, A. D. 1874.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is John Samuels; my occupation, a farmer; my age, twenty-two years; my residence during the past year has been in Wise County, Texas, on Denton Creek. I have no interest in the claim question, and am not related to John C. Hale.

Interrogatory 2. Were you ever acquainted with Sheppard Neal; and, if so, where did you become acquainted with him?

Answer. I am. He was my step-father. I first knew him in Arkansas.

Interrogatory 3. Is he (Sheppard Neal) living?

Answer. He is dead.

Interrogatory 4. How do you know this fact?

Answer. I saw him die.

Interrogatory 5. Do you know the name of Sheppard Neal's father; and, if so, were you acquainted with him?

Answer. I was acquainted with him. His name was James Neal.

Interrogatory 6. Where did you last know him?

Answer. I last knew him in Denton County, Texas, on Elm Creek.

Interrogatory 7. Will you state, if you know, what place he was from when he went to Texas?

Answer. He came from Arkansas, about the Hot Springs.

Interrogatory 8. Will you state, if you know, what was his age the last time you saw him?

Answer. He was about seventy-two years old.

Interrogatory 9. Were you acquainted with any other man of the same name and age?

Answer. I was not.

Interrogatory 10. Is he now living, or is he dead, or do you know?

Answer. He is dead.

Interrogatory 11. How do you know that fact?

Answer. I saw him after he was dead.

Interrogatory 12. Did you ever hear him say that he gave depositions in the Hot Spring case between the parties, Hale, Gaines, and Proctor, in Arkansas?

Answer. I never did.

Interrogatory 13. Do you know any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

his
JOHN × SAMUELS.
mark.

Sworn to and subscribed before me this 18th day of April, A. D. 1874.

JAMES M. LINDSAY,
Judge of Twelfth Judicial District Texas, and Ex-officio Commissioner Court of Claims.

262 *Deposition of Caroline Neal, for claimant, taken at Decatur, Texas, on the 18th day of April, A. D. 1874.*

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to claimant.

Answer. My name is Caroline Neal; my age, 43 years; my occupation, farming. I have lived during the past year on Denton Creek, in Wise County, Texas. I have no interest in the claim in question, and am not related in any way to claimant.

Interrogatory 2. Were you ever acquainted with Sheppard Neal; and, if so, where did you become acquainted with him?

Answer. I knew him in Hot Springs County, Arkansas. He was my husband.

Interrogatory 3. Is he (Sheppard Neal) living?

Answer. He is dead.

Interrogatory 4. How do you know this fact?

Answer. I saw him die.

Interrogatory 5. Do you know the name of Sheppard Neal's father; and, if so, were you acquainted with him?

Answer. His name was James Neal. I was acquainted with him.

Interrogatory 6. Where did you last know him?

Answer. I last knew him in Denton County, Texas, on Elm Creek.

Interrogatory 7. Will you state, if you know, what place he was from before he went to Texas?

Answer. He was from Hot Springs County, Arkansas?

Interrogatory 8. Will you state, if you know, what was his age the last time you saw him?

Answer. He was eighty-two years old.

Interrogatory 9. Were you ever acquainted with any other man of that name and age?

Answer. I was not.

Interrogatory 10. Is he now living, or is he dead, or do you know?

Answer. He is dead.

Interrogatory 11. How do you know this fact?

Answer. I was present at his death.

Interrogatory 12. Did you ever hear him say that he gave depositions in the Hot Springs case between parties (Hale, Gaines, and Proctor) in Arkansas?

Answer. I have heard him speak of having given depositions in that case, and knew of it at the time he gave them.

Interrogatory 13. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

her
CAROLINE + NEAL.
mark.

Sworn to and subscribed before me this 18th day of April, A. D. 1874.

JAMES M. LINDSAY,
Judge of Twelfth Judicial District, Texas, and Ex-officio Commissioner Court of Claims.

Certified copies of testimony perpetuated under the laws of the State of Arkansas.

To the honorable John C. Murray, judge of the Hot Spring circuit court of the State of Arkansas:

Your petitioner, John C. Hale, would respectfully show unto your honor that he is one of the claimants of the southwest quarter of section thirty-three, in township two south, of range nineteen west, in the county of Hot Spring, upon which the Hot Springs are situated, under
263 and by virtue of the pre-emption of John Percifield, dec'd, which quarter-section is also claimed by Henry Rector, under a New Madrid location, and by William H. Gaines' wife & the other heirs of Ludovicus Belding, dec'd, under a pre-emption; and your petitioner further shows that the said heirs of Belding, dec'd, have instituted an action by ejectment against your petitioner in the Hot Spring circuit court for said land, and judgement having been rendered against them, they appealed to the supreme court where said suit is now pending. Your petitioner would further show that if the said judgement should be reversed, and said case remanded back to the circuit court and tried anew, he may need the testimony of several witnesses who are now growing old and may die before their depositions can be taken legally in said case. And your petitioner further shows that he believes and expects that he will be made party to a chancery suit hereafter to be brought among said parties in said circuit court to settle the right to said land, and in which suit the validity of said pre-emption right of the said John Percifield, dec'd, under the act of Congress of 1854, will be impeached and involved; and your petitioner believes that the testimony of Adam Stroud, Thomas Woodward, and James Neal will be necessary and important to his rights on the trial of said cause, and he therefore prays your honor to grant him a commission according to the statute in such case made and provided, to take and perpetuate their testimony in relation to said pre-emption by said Adam Stroud. Your petitioner believes he will be able to prove that he, the said John Percifield, did inhabit and cultivate said quarter-section of land for several years previous to the 12th of April, 1814, and was in possession thereof at the passage of said pre-emption act; and that he never did remove from the Territory of Arkansas after his first settlement thereon, which was prior to the year 1810. By said James Neal, your petitioner believes he will be able to prove that he, said Neal, resided in the vicinity of the said Hot Springs since the year 1812, and that he knows that said Percifield did inhabit and cultivate said quarter-section of land, now embracing said Hot Springs, several years prior to the year 1814, and never did remove from said Territory of Arkansas. By said Thomas Woodward, your petitioner believes he will be able to prove that he visited said Hot Spring in the year 1816, and the said John Percifield then occupied and lived on said tract of land, and that he boarded with him several weeks. The said Stroud lives on the military road in Clark County, in this State; and the said Neal in Hot Spring County; and the said Woodward, in Camden, Washita County, all in this State.

Your petitioner prays your honor to have commissions issued to take said depositions according to law; that they may be used in the trial of any case involving the title to the said springs and land, particularly the pre-emption right of said John Percified, dec'd, thereto, as aforesaid.

JOHN C. HALE,
By ENGLISH, & TRAPNALL, TRAPNALL.

HOT SPRING COUNTY:

I, John C. Hale, the petitioner aforesaid, do state the facts set forth in the said petition are true, to the best of my knowledge and belief.

(Signed) J. C. HALE.

Subscribed & sworn to by J. C. Hale, before me, this 15th day of Jan., 1853.

L. RUNYON, *J. P.*

HOT SPRING CO.:

I, John C. Hale, the petitioner, appears & state that the facts set forth in the said petition is true to the best of my knowledge and *and* belief.

J. C. HALE.

Subscribed and sworn to by the said J hn C. Hale on the 5th day of March, 1853.

PHINEAS BARNES, *J. P.*

On examination of the foregoing petition of John C. Hale, I, as judge of the Hot Spring circuit court, do hereby grant the commissions therein prayed for, and the clerk of said circuit court is hereby required to issue a commission to any judge of any court of record, to any two justices of the peace in the county of Clark, requiring said judge or justices to take the depositions of Adam Stroud; and that he also issue a commission to any judge of a court of record, or to any two justices of the peace of the county of Washita, requiring such judge or justices of the peace to take the deposition of Thomas Woodward; and that he issue also commission to any judge of a court of record, or any two justices of the peace, in Hot Spring County, requiring said judge or justices to take the depositions of James Neal—the said John C. Hale first giving to every person, who may be known to be interested in the premises, his attorney or agent, at least ten days' notice of the time and places of taking said depositions, *vested fully;* and, also, deliver, with every such notice, a copy of the within and foregoing petition. And the clerk of said circuit court is hereby further required, immediately on the return of said depositions to his office, in his ex-officio capacity of recorder, to record them and the papers and documents connected therewith, as required by law.

J. C. MURRAY,
Judge of the Hot Spring Circuit Court of Arkansas.

To Henry M. Rector, Ebenezer Cummins, Esq., his attorney, William H. Gaines and his wife, Maria Gaines, (formerly Maria Belding,) Albert Belding, Henry Belding, and George Belding, the heirs at law of Ludovicus Belding, deceased, or their attorney, James M. Curran

Take notice that, in pursuance of an order of the Hon. John C. Murray, judge of the Hot Spring circuit court, for commissions to perpetu-

ate testimony, &c., and in conformity with a commission issued thereunder, (a copy of which order, and petition on which it was made, being hereto attached,) I shall proceed, on the seventh day of October, 1853, between the hours of 5 o'clock a. m. and 6 o'clock p. m., of said day, at the office of John C. Hale, justice of the peace in Hot Springs Valley, in Hot Spring County, State of Arkansas, to take the deposition of James Neal, touching his knowledge of the matters and things set forth in said petition hereto annexed, to be read in evidence, in the suits in controverc'es referred to in said petition, conditionally, when and where you may attend, if you think proper; and the taking of the depositions, under this notice, if not completed on said day will
264 be continued from day to day at same place, and between the same hours until concluded. Given this 3rd Sept., 1853.

JOHN C. HALE,
By E. H. ENGLISH, *Atty.*

Served the within notice on Henry M. Rector, in Saline County September 6th, 1853, by handing him a true copy thereof, together with a copy of the petition and order therein referred to and hereto attached.

WM. A. CRAWFORD,
Sheriff Saline Co., Ark.

Mileage, 60; serving notice, 50; copy, $1.00—$2.10.

Served the within notice on William H. Gaines and wife, Maria Gaines, Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus Belding, deceased, by handing to James M. Curran, their attorney and agent, a true copy of the within notice, *together with a true copy of the within notice*, together with a true copy of the petition and order therein referred to and hereto attached. Done in Pulaski County, Arkansas, September the 6th, 1853.

JOHN C. PRAY,
Sheriff Pulaski Co., Ark.,
By H. REAGAN,
Deputy Sheriff.

Sh'ff fees, .50.

To the honorable John C. Murray, judge of the Hot Spring circuit court of the State of Arkansas:

Your petitioner, John C. Hale, would respectfully show unto your honor that he is one of the claimants of the southwest quarter of section thirty-three, in township two south, of range nineteen west, in the county of Hot Spring, upon which the Hot Springs are situated, under and by virtue of the pre-emption of John Percifield, dec'd, which quarter-section is also claimed by Henry Rector under a New Madrid location, and by William H. Gaines & wife, and the other heirs of Ludovicus Belding, dec'd, under a pre-emption; and your petitioner further shows that the said heirs of L. Belding, dec'd, have instituted an action of ejectment against your petitioner in the Hot Springs circuit court, for said land, and judgement having been rendered against them, they appeal to the supreme court, where said suit is now pending. Your petitioner would further show *show* that if the said judgement should be reversed, and said case remanded to the circuit court and tried anew, he may need the testimony of several witnesses who are now growing old, and may die before their depositions can be taken legally in said case.

And your petitioner further shows that he believes and expects that he will be made a party to a chancery suit hereafter to be brought among said parties in said circuit court, to settle the right to said land, and in which suit the validity of said pre-emption right of the said John Percifield, dec'd, under the act of Congress of 1814, will be impeached and involved; and your petitioner believes that the testimony of Adam Stroud, Thomas Woodward, and James Neal will be necessary and vitally important to his right in the trial of said cause, and he therefore prays your honor to grant him a commission, according to the statute in such cases made and provided, to take and perpetuate their testimony in relation to said pre-emption by Adam Stroud. Your petitioner believes he will be able to prove that the said John Percifield did inhabit and cultivate said quarter-section of land for several years prior to the 12th of April, 1814, and was in possession thereof at the passage of said pre-emption act; and that he never did remove from the Territory of Arkansas after his first settlement thereon, which was prior to the year 1810.

By said James Neal your petitioner believes he will be able to prove that he, said Neal, resided in the vicinity of the said Hot Springs since the year 1812, and that he knows that said Percifield did inhabit said quarter-section of land now embracing said Hot Springs several years prior to the 12th of April, 1814, and never did remove from said Territory of Arkansas.

By said Thomas Woodward your petitioner believes he will be able to prove that he visited said Hot Springs in the year 1816, and the said John Percifield then occupied and lived on said tract of land, and that he boarded with him several weeks. The said Stroud lives on the military road in Clarke County, in this State; and the said Neal in Hot Spring County; and the said Woodward in Camden, Washita County, all in this State. Your petitioner prays your honor to have commissions issued to take said depositions according to law, that they may be used by him in the trial of any cause involving the title of said springs and land, particularly by the pre-emption right of John Percifield, dec'd, thereto as aforesaid.

JOHN C. HALE,
By ENGLISH & TRAPNALL & TRAPNALL.

HOT SPRING CO.:

I, John C. Hale, the petitioner aforesaid, do state that the facts set forth in the said petition are true, to the best of my knowledge and belief.

(Signed) J. C. HALE.

Subscribed & sworn to by said J. C. Hale, before me, this 15' day of Ja'y, 1853.

L. RUNYON, *J. P.*

HOT SPRING CO.:

I, John C. Hale, the petitioner aforesaid, state that the facts set forth in said petition are true, to the best of my knowledge and belief.

J. C. HALE.

Subscribed and sworn to by the said J. C. Hale, before me, on 5th of March, 1853.

PHINEAS BARNES, *J. P.*

On examination of the foregoing petition of John C. Hale, I, as judge of the Hot Springs circuit court, do hereby grant the commissions therein prayed for, and the clerk of said circuit court is hereby required to issue a commission to a judge of any court of record or any two justices of the peace in the county of Clark, requiring such judge or justices to take the deposition of Adam Stroud; and that he also issue a commission to any judge of a court of record, or any two justices
265 of the peace of the county of Washita, requiring such judge or justices to take the deposition of Thomas Woodward; and that he issue also a commission to any judge of a court of record or any two justices of the peace in Hot Spring County, requiring such judge or justices to take the depositions of James Neal—the said John C. Hale first giving to every person who may be known to be interested in the premises, his attorney or agent, at least twenty days' notice of the time and places of taking said depositions, respectfully, and also delivering with every such notice a copy of the within and foregoing petition; and the clerk of said circuit court is hereby further required. immediately on the return of said depositions to this office, in his ex-officio capacity of recorder, to record them and the papers and documents connected therewith, as required by law.

J. C. MURRAY,
Judge of the Hot Spring Circuit Court, Arkansas.

STATE OF ARKANSAS,
County of Hot Spring:

The State of Arkansas to any judge of any court of record or to any two justices of the peace in the county of Hot Spring, in the State of Arkansas, greeting:

Know ye that the Hon. John C. Murray, judge of our Hot Spring circuit court, having, upon the petition of John C. Hale, granted an order for the said Hale to take and perpetuate the testimony of James Neal, of your county, touching his knowledge of the matters in controversy or which may hereafter be in controversy between said Hale and others in reference to the title to the tract of land upon which the Hot Springs are situated, &c.:

Know ye that, reposing confidence in your prudence and fidelity, do by these presents give unto you authority diligently to examine said witnesses touching his knowledge of matters aforesaid: Therefore, we do desire you, at such time and place as shall be named to you for that purpose, you cause said witnesses to come before you; that you then and there examine him, upon his corporal oath first taken before you; you reduce his examination to writing; and when you shall so have taken them, that you send the same, with this commission, closed up under your seal, to us, at Rockport, Arkansas, without delay.

Witness Jno. P. Emerson, clerk of said circuit court of Hot Spring County, and the seal of said court, at office, this 25th day of July, 1853.

[L. S.] JNO. P. EMERSON, *Clerk.*

The execution of this commission appears by the schedule hereto annexed.

L. RUNYON, *J. P.*
PHINEAS BARNES, *J. P.*

And your petitioner further shows that he believes and expects that he will be made a party to a chancery suit hereafter to be brought among said parties in said circuit court, to settle the right to said land, and in which suit the validity of said pre-emption right of the said John Percifield, dec'd, under the act of Congress of 1814, will be impeached and involved; and your petitioner believes that the testimony of Adam Stroud, Thomas Woodward, and James Neal will be necessary and vitally important to his right in the trial of said cause, and he therefore prays your honor to grant him a commission, according to the statute in such cases made and provided, to take and perpetuate their testimony in relation to said pre-emption by Adam Stroud. Your petitioner believes he will be able to prove that the said John Percifield did inhabit and cultivate said quarter-section of land for several years prior to the 12th of April, 1814, and was in possession thereof at the passage of said pre-emption act; and that he never did remove from the Territory of Arkansas after his first settlement thereon, which was prior to the year 1810.

By said James Neal your petitioner believes he will be able to prove that he, said Neal, resided in the vicinity of the said Hot Springs since the year 1812, and that he knows that said Percifield did inhabit said quarter-section of land now embracing said Hot Springs several years prior to the 12th of April, 1814, and never did remove from said Territory of Arkansas.

By said Thomas Woodward your petitioner believes he will be able to prove that he visited said Hot Springs in the year 1816, and the said John Percifield then occupied and lived on said tract of land, and that he boarded with him several weeks. The said Stroud lives on the military road in Clarke County, in this State; and the said Neal in Hot Spring County; and the said Woodward in Camden, Washita County, all in this State. Your petitioner prays your honor to have commissions issued to take said depositions according to law, that they may be used by him in the trial of any cause involving the title of said springs and land, particularly by the pre-emption right of John Percifield, dec'd, thereto as aforesaid.

JOHN C. HALE,
By ENGLISH & TRAPNALL & TRAPNALL.

HOT SPRING CO.:

I, John C. Hale, the petitioner aforesaid, do state that the facts set forth in the said petition are true, to the best of my knowledge and belief.

(Signed) J. C. HALE.

Subscribed & sworn to by said J. C. Hale, before me, this 15' day of Ja'y, 1853.

L. RUNYON, *J. P.*

HOT SPRING CO.:

I, John C. Hale, the petitioner aforesaid, state that the facts set forth in said petition are true, to the best of my knowledge and belief.

J. C. HALE.

Subscribed and sworn to by the said J. C. Hale, before me, on 5th of March, 1853.

PHINEAS BARNES, *J. P.*

On examination of the foregoing petition of John C. Hale, I, as judge of the Hot Springs circuit court, do hereby grant the commissions therein prayed for, and the clerk of said circuit court is hereby required to issue a commission to a judge of any court of record or any two justices of the peace in the county of Clark, requiring such judge or justices to take the deposition of Adam Stroud; and that he also issue a commission to any judge of a court of record, or any two justices
265 of the peace of the county of Washita, requiring such judge or justices to take the deposition of Thomas Woodward; and that he issue also a commission to any judge of a court of record or any two justices of the peace in Hot Spring County, requiring such judge or justices to take the depositions of James Neal—the said John C. Hale first giving to every person who may be known to be interested in the premises, his attorney or agent, at least twenty days' notice of the time and places of taking said depositions, respectfully, and also delivering with every such notice a copy of the within and foregoing petition; and the clerk of said circuit court is hereby further required. immediately on the return of said depositions to this office, in his ex-officio capacity of recorder, to record them and the papers and documents connected therewith, as required by law.

J. C. MURRAY,
Judge of the Hot Spring Circuit Court, Arkansas.

STATE OF ARKANSAS,
County of Hot Spring:

The State of Arkansas to any judge of any court of record or to any two justices of the peace in the county of Hot Spring, in the State of Arkansas, greeting:

Know ye that the Hon. John C. Murray, judge of our Hot Spring circuit court, having, upon the petition of John C. Hale, granted an order for the said Hale to take and perpetuate the testimony of James Neal, of your county, touching his knowledge of the matters in controversy or which may hereafter be in controversy between said Hale and others in reference to the title to the tract of land upon which the Hot Springs are situated, &c.:

Know ye that, reposing confidence in your prudence and fidelity, do by these presents give unto you authority diligently to examine said witnesses touching his knowledge of matters aforesaid: Therefore, we do desire you, at such time and place as shall be named to you for that purpose, you cause said witnesses to come before you; that you then and there examine him, upon his corporal oath first taken before you; you reduce his examination to writing; and when you shall so have taken them, that you send the same, with this commission, closed up under your seal, to us, at Rockport, Arkansas, without delay.

Witness Jno. P. Emerson, clerk of said circuit court of Hot Spring County, and the seal of said court, at office, this 25th day of July, 1853.

[L. S.] JNO. P. EMERSON, *Clerk.*

The execution of this commission appears by the schedule hereto annexed.

L. RUNYON, *J. P.*
PHINEAS BARNES, *J. P.*

Deposition of a witness, taken and subscribed before us, acting justices of the peace for the county of Hot Spring, in the State of Arkansas, duly commissioned as such justices, on the seventh day of October, A. D. eighteen hundred and fifty-three, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, at the office of John C. Hale, justice of the peace in Hot Spring Valley, in the town of Hot Spring, in the county of Hot Spring, in the State of Arkansas, in pursuance of a commission hereto annexed, for the purpose of taking and perpetuating the testimony of said witness, to be read in evidence in the suits or controversies conditionally which may hereafter arise between John C. Hale and others in relation to the title to the tract of land upon which the Hot Springs are situated, and particularly in (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*,) evidence in favor of the pre-emption right of John Percifield, deceased, thereto:

JAMES NEAL, a witness known to me to be of lawful age, being to me at the time and place aforesaid produced, and being first duly sworn to testify the truth, the whole truth, and nothing but the truth in relation to the right of pre-emption of John Percifield, deceased, to the tract of land embracing the Hot Springs, in the county of Hot Spring, and State of Arkansas, did then and there, on his oath aforesaid, depose as follows, to wit:

1st question of John C. Hale. At what date did you first become acquainted with John Percifield, deceased, the claimant of a pre-emption right to the tract of land embracing the Hot Springs, as aforesaid?

Answer. In the summer of eighteen hundred and twelve. (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*)

2nd question. Where did you first become acquainted with him?

Answer. My first acquaintance with him was in Hot Spring Valley, at that time in the Territory of Arkansas, now known as the Hot Springs, in the State of Arkansas.

3rd question. In what business was he engaged at said hot springs at the time of your first acquaintance with him?

Answer. Was, at that time, a keeping of a few boarders and living at said springs in a little log cabin.

4th question. Was there any more cabins or shanties claimed by him than that in which he was living?

Answer. Not that I recollect of. There was none claimed by any one else at that time, to my knowledge.

5th question. Did you see any cultivation there in that year? (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*)

Answer. None at all that I saw, with the exception of a small patch which was called then Percifield's garden or truck-patch, which was situated on the east side of Hot Springs Creek, extending up towards the foot of the mountain, right above the upper main hot spring, as was called *them* days, and is called the upper these days.

6th question. Do you recollect who called at Percifield's?

Answer. I don't recollect of any particular person, with the exception of Percifield himself.

7th question. Was there anybody living with Percifield at that date?

Answer. There was a young man that I was acquainted with previous to that time, by the name of Thomas (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*,) Holeman, that told me, at that time, that he was a living with John Percifield, and I saw him doing things about the cabin.

8th question. How far was the residence or house Percifield inhabited at that time from the hot springs and garden, and the place where John C. Hale's house now stands?

Answer. I should suppose, according to my recollection, that it was about between forty and sixty steps from the hot water, not very far from the center of the main hot water, and, as near as I can guess, between two hundred and seventy yards to what was called his gar-
266 den or truck-patch, and about where John C. Hale's main building now stands.

9th question. How long before you visited the springs again? (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*)

Answer. As well as I recollect, it was some time in the fall. I was in the Hot Springs Valley again in eighteen hundred and fourteen.

10th question. Who did you find living in the same house that Perciful was living in, in eighteen hundred and twelve?

Answer. Perciful was in the same building himself.

11th question. Where have you principally lived since eighteen hundred and twelve?

Answer. My home has been within fifty to sixty miles of the Hot Springs Valley, Arkansas.

12th question. Do you ever know of Perciful having moved from said Territory after your first acquaintance with him?

Answer. I know he never did remove from said Territory. (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*)

13th question. Upon what quarter-section was the buildings, improvements, and cultivation of said Purcifull situated?

Answer. They were upon that quarter-section embracing the Hot Springs and partly covered by Rector's New Madrid location, as I am informed.

14th question. Where were you in January 20, 1850, when the investigation between the parties claiming the Hot Springs was had before the register and receiver at Washington, Ark's?

Answer. I was on a steamboat, on my way from Little Rock to New Orleans.

15th question. Did you ever hear Percifull say he claimed the Hot Springs by virtue of his settlement-right?

Answer. I did not. (L. RUNYON, *J. P.*, PHINEAS BARNES, *J. P.*)

16th question. Did you ever hear any one else claim said Hot Springs, by virtue of settlement-right, previous to 1814?

Answer. I did not.

17th question. What is your age?

Answer. Sixty-four years old July last.

And further this deponent sayeth not.

JAMES NEAL.

STATE OF ARKANSAS,
County of Hot Springs:

We, Lawson Runyon and Phineas Barnes, acting and duly commissioned justice' of the peace in and for the county of Hot Spring, in the State of Arkansas, do hereby certify and make known that the foregoing deposition of James Neal was taken before us on the 7th day of October, A. D. 1853, between the hours and at the place in the caption heretofore above mentioned; that the examination, responses, and statements of the said deponents was reduced to writing in our presence and by said deponent sworn to and subscribed in our presence, at the time and place aforesaid, and that the said deponent is a resident of the county of Hot Spring, and State of Arkansas.

In testimony whereof we, L. Runyon and Phineas Barnes, justices of

the peace, do hereunto set our hands, at Hot Springs, in the State of Arkansas, this 7th day of October, A. D. 1853.

L. RUNYON, *J. P.*
PHINEAS BARNES, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Jno. P. Emerson, clerk of the circuit court and ex-officio recorder in and for the county of Hot Spring and State aforesaid, do hereby certify that the foregoing deposition was filed in my office on this the 1st day of November, 1853, and is now duly recorded with all the accompanying papers, (to wit,) the petition of John C. Hale to the judge, the order of the judge, the notice to Henry M. Rector, and the heirs of Ludovicus Belding, deceased, with a copy of the petition and order aforesaid, in record-book of deeds, marked "D," from 291 to page 302, inclusive.

In testimony whereof I, Jno. P. Emerson, clerk of the circuit court & ex-officio recorder, have set my hand and affixed the seal of said court at office in Rockport, this 1st day of November, 1853.

[L. S.] JNO. P. EMERSON, *Clerk.*

To Henry M. Rector or Ebenezer Cummins, esq'r, his attorney, William H. Gaines & wife, Maria Gaines, (formerly Mariah Belding,) Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus, deceased, or James M. Curran, their attorney:

Take notice that, in pursuance of an order of the Hon. John C. Murray, judge of the Hot Spring circuit court, for commissions to perpetuate testimony, & in conformity with a commission issued thereunder, a copy of which order and petition upon which it was made being hereto attached, I shall proceed on the 14th day of October, 1853, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day, at the court-house in the city of Camden, in the county of Washita, in the State of Arkansas, to take the deposition of Thomas Woodward touching his knowledge of the matters and things set forth in said petition hereto annexed, to be read in evidence in the suits or controversies referred to in said petition, (conditionally,) when and where you may attend if you think proper, and the taking the deposition under this notice, if not completed on said day, will be continued over from day to day thereafter at the same place and between the same hours until concluded.

Given this 3d of September, 1853.

JOHN C. HALE,
By E. H. ENGLISH, *Atty.*

Served the within notice on Henry M. Rector, in Saline County, September 6th, 1853, by handing him a true copy thereof, together with a true copy of the petition and order therein referred to and hereto attached.

WM. A. CRAWFORD,
Sheriff of Saline County.

Sh'ff' fees: Serving notice, 50; copying, 1.00; milage, 60—$2.10.

Served the within notice on William H. Gaines and wife, Maria Gaines, Albert & Henry Belding, & George Belding, heirs at law of Ludovicus Belding, deceased, by handing to James M. Curran, their

attorney and agent, a true copy of the within notice, together with a true copy of the petition and order therein referred to and hereto attached. Done in Pulaski County, Arkansas, September 6th, 1853.

JOHN C. PRAY,
Sheriff of Pulaski County, Ark.,
By HUGH BROGAN,
Depty. Shff.

Sh'ff' fee, $50.

267 To the honorable John C. Murray, judge of the Hot Spring circuit court of the State of Arkansas:

Your petitioner, John C. Hale, would respectfully show unto your honor that he is one of the claimants of the southwest quarter of section thirty-three, in township two south, of range nineteen west, in the county of Hot Spring, upon which the Hot Springs are situated, under by virtue of the pre-emption of John Percifull, deceased, which quarter-section is also claimed by Henry M. Rector, under a New-Madrid location, and by William H. Gaines & wife, and others, heirs of Ludovicus Belding, dec'd, under a pre-emption; and your petitioner further shows the said heirs of L. Belding, dec'd, have instituted in action of ejectment against your petitioner in the Hot Spring circuit court for said land, and judgement having been rendered against them, they appealed the supreme court, where said suit is now pending.

Your petitioner would further show that if the said judgment should be reversed and said case remanded to the circuit court and tried anew, he may need the testimony of several witness' who are now growing old, and may die before their depositions can be taken legally in said case.

And your petitioner further shows that he believes and expects that he will be made a party to a chancery suit hereafter to be brought among said parties in said circuit court to settle the right to said land, in which suit the validity of said pre-emption right of the said John Perciful, dec'd, under the act of Congress of 1814 will be impeached and involved; and your petitioner believes that the testimony of Adam Stroud, Thomas Woodward, and James Neal will be necessary and vitally important to his right in the trial of said cause, and he therefore prays your honor to grant him a commission according to the statute in such cases made and provided, to take and perpetuate their testimony in relation to said pre-emption.

By said Adam Stroud your petitioner believes he will be able to prove that the said John Percifull did inhabit and cultivate said quarter-section of land for several years prior to the 12th day of April, 1814, and was in possession thereof at the passage of said pre-emption act, and that never did remove from the Territory of Arkansas after his first settlement thereon, which was prior to the year 1810. By James Neal your petitioner believes he will be able to prove that he visited said Hot Springs in the year 1816, and that the said John Percifull then occupied and lived on said tract of land, and that he boarded with him several weeks. The said Stroud lives on the military road in Clark County, in this State, and the said Neal in Hot Spring County, and the said Woodward in Camden, Washita County, all in this State.

Your petitioner prays your honor to have commissions issued to take said depositions according to law, that they may be used by him in the trial of any cause involving the title to said springs and land, and particularly the pre-emption right of said John Percifull.

JOHN C. HALE,
By ENGLISH, TRAPNELL & TRAPNELL.

HOT SPRING CO.:

I, John C. Hale, the petitioner aforesaid, do state that the facts set forth in the said petition are true, to the best of my knowledge & belief.

(Sign') J. C. HALE.

Subscribed and sworn to by said Hale, before me, this 16th day of Ja'y, 1853.

L. RUNYAN, *J. P.*

HOT SPRING COUNTY:

I, John C. Hale, the petitioner aforesaid, state that the facts set forth in said petition are true, to the best of my knowledge and belief.

J. C. HALE.

Subscribed and sworn to by the said J. C. Hale, before me, on 5th of March, 1853.

PHINEAS BARNES, *J. P.*

On examination of the foregoing petition of John C. Hale, I, as judge of the Hot Spring circuit court, do hereby grant the commissions therein prayed for. The clerk of said circuit court is hereby required to issue a commission to any judge of any court of record or any two justices of the peace in the county of Clark, requiring such judge or justices to take the deposition of Adam Stroud; and that he also issue a commission to any judge of a court of record, or to any two justices of the peace of the county of Washita, requiring such judge or justices to take the deposition of Thomas Woodward; and that he issue also a commission to any judge of a court of record, or any two justices of the peace in Hot Spring County, requiring such judge or justices to take the depositions of James Neal, the said John C. Hale first giving to every person who may be known to be interested in the premises, his attorney or agent, at least twenty days' notice of the times and places of taking said depositions, respect*fully*, and also delivering with every such notice a copy of the within and foregoing petition; and the clerk of said circuit court is hereby further required, immediately on the return of said depositions to his office, in his ex-officio capacity of recorder, to record them and the papers and documents connected therewith, as required by law.

J. C. MURRAY,
Judge of Hot Spring Circuit Court, Arkansas.

STATE OF ARKANSAS,
County of Hot Spring, ss:

The State of Arkansas to any judge of any court of record, or to any two justices of the peace in the county of Washita, in the State of Arkansas, greeting:

Know ye that the Hon. John C. Murray, judge of our Hot Spring circuit court, having, upon the petition of John C. Hale, granted an order for the said Hale to take and perpetuate the testimony of Thomas Woodward, of your county, touching his knowledge of matters in controversy, or which may hereafter be in controversy between said Hale and others in reference to the title to the tract of land upon which the Hot Springs are situated, &c.:

Know ye, that we, reposing confidence in your prudence and fidelity, do by these presents give unto you authority diligently to examine said

witnesses touching his knowledge of the matters aforesaid: Therefore, we desire you at such time and place as shall be named to you for that purpose, you cause the said witness to come before you; that you then and there examine him upon his corporal oath, first taken before you; that you reduce his examination to writing; and when you shall
268 so have taken them that you send the same with this commission, closed up under your seal, to us at Rockport, Arkansas, without delay.

Witness Jno. P. Emerson, clerk of said circuit court of Hot Spring County, and the seal of said court, at office, this 25th day of July, 1853.
[L. s.] JNO. P. EMERSON, *Clerk.*

CAMDEN, ARKANSAS, *Oct.*, 1853.

OCTOBER 14TH, 1853.—Court of Ecore Fabra Township, Ouachita County, and for the purpose of taking deposition of Thomas Woodward, in the case of J. C. Hale & others, for the perpetuating the testimony of said Thomas Woodward, by virtue of a commission from the Hon. John C. Murray, judge of Hot Spring circuit court. The said Thomas Woodward not appearing on said day, said court was adjourned to meet Saturday, October 15, at 10 o'clock a. m.

SATURDAY, *October* 15*th*, 1853.—Court met pursuant to adjournment. Said witness, Thomas Woodward, failing to appear, said court adjourned to meet on Monday, 17th October, at 10 a. m.

MONDAY, *October* 17*th*, 1853.—Court met pursuant to adjournment, when said witness appeared, and I proceeded to take the deposition of said witness, after being duly sworn.

Deposition of witness, taken and subscribed before me, E. H. Whitfield, an acting justice of the peace for the county of Ouachita, for the State of Arkansas, duly commissioned as such, on this 17th day of October, A. D. 1853, between the hours of 8 o'clock a. m., and one o'clock p. m. of said day, at the court-house in the city of Camden, in the county of Ouachita, in the State of Arkansas, in pursuance of a commission hereunto annexed, to perpetuate the testimony of Thomas Woodward to be read in evidence in the in controversy set forth in the petition hereto annexed, wherein the heirs of L. Belding, dec'd, and J. C. Hale and others, defendants, on the part of said J. C. Hale.

THOMAS WOODWARD, a witness known to me to be of lawful age, being to me at the time and place aforesaid *and* produced, and being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in regard to the matter in controversy, in the suit aforesaid, did then and there on his oath aforesaid, *did* depose as follows, to wit:

Thomas Woodward testifies as follows:

That I was at the Hot Springs in the month of May, and left in the month of June after—remained some twenty days—in the year 1816. During the time that I staid at the springs I boarded with one John Percifull and his wife, Sarah; that they resided in a log-house and had some enclosures, and among them a garden which was cultivated in vegetables, and a lot for horses. He had at the time living with him a man by the name of Thomas Holeman; and Percifull told me that he came there in the year 1807, and had been living there from that time until then; and Holman informed me that he had been living with him several years. There was at that time divers white persons and Indians

camped about the springs, but none appeared to exercise any ownership except Percifull; others appeared to have come there for the benefit of the water and matters of curiosity.

I again visited the Hot Springs in 1841, and found Mrs. Percifull still living there, with one John C. Hale; that is, she was living there a portion of her time, and she and her son David Percifull informed me they had sold out their interest in the springs to John C. Hale and a man by the name of Woods.

I have since a plat certified by the surveyor-general. I find that the settlement & cultivation aforesaid of the said Percifull is situated in the southwest fourth of section thirty-three, of township two south of range nineteen west; and, to the best of my recollection, there was no other house or houses on said premises but what was claimed by said Purcifull. I recollect to have become acquainted with a man by the name of Winthrop Colbreath, who then lived near the Caddo, but was at the springs when I was there in 1816; also a man by the name of Neal, who, I think, now lives in Caddo Cove; both I have seen at the Hot Springs since I became a citizen of Arkansas, in 1842. In the year 1850, when I gave my first deposition, Neal was there at the springs, and his recollection and mine with regard to Percifull being the only claimant in 1816 were the same, for we talked the matter over. I have frequently visited the springs since I became a citizen of Arkansas, and have always found John C. Hale in possession of the property, which I understood to belong to Mrs. Percifull in 1841, though there had, from the five years, been some alteration made, by pulling down houses and putting up others in their stead.

Oct. 17th, 1853.

T. D. WOODWARD.

STATE OF ARKANSAS,
County of Ouachita:

I, E. H. Whitfield, an acting and duly commissioned justice of the peace in and for the county of Ouachita, in the State of Arkansas, do hereby certify and make known that the foregoing deposition of Thomas Woodward was taken before me on the 17th day of October, A. D. 1853, between the hours and at the place in the caption hereof above mentioned; that the statement of said deponent was reduced to writing in my presence, and by the said deponent sworn to & subscribed in my presence, at the time and place aforesaid; and the said deponent is a resident of the county of Ouachita, in the State of Arkansas. In testimony whereof I, E. H. Whitfield, a justice of the peace, do hereunto set my hand at Camden, in the State of Arkansas, this 17th day of October, 1853.

E. H. WHITFIELD, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Jno. P. Emerson, clerk of circuit court and ex-officio recorder in and for the county of Hot Spring and State aforesaid, do hereby certify that the annexed and foregoing deposition, with all the accompanying papers & documents, to wit, copy of the petition of John C. Hale to John C. Murray, judge of the circuit court of said county; notice to Henry Rector and the heirs of Ludovicus Belding, dec'd; order of the judge for commissions to issue, &c.; & commissions, were filed in my office on the first day of November, 1853, and is now duly recorded in record-book of deeds & mortgages, from page 303 to 310, inclusive.

In testimony whereof I, Jno. P. Emerson, clerk of the circuit court of

said county, have set my hand and affixed my seal of said court, at office, on the 1st day of Nov., 1853.

[L. S.]

JNO. P. EMERSON,
Clerk & Ex-officio Recorder.

269 To Henry M. Rector, or Ebenezer Cummins, esq., his attorney, William H. Gains & wife, Mariah Gaines, (Mariah Belding,) Albert Belding, Henry Belding, & George Belding, heirs at law of Ludovicus Belding, or James M. Curran, their attorney:

Take notice that, in pursuance of an order of John C. Murray, judge of the Hot Spring circuit court, for commissions to perpetuate testimony, &c., and in conformity with a commission issued thereunder, (a copy of which order, and petition on which it was made, being hereto attached,) I shall proceed, on the 21st day of October, 1853, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day, at the residence of Adam Stroud, in the county of Clark, in the State of Arkansas, on the military road, to take the deposition of the said Adam Stroud, touching his knowledge of the matters and things set forth in said petition hereto annexed, to be read in evidence in the suit or controversies referred to in said petition, (conditionally,) when and where you may attend if you may think proper; and the taking of the deposition under this notice, if not completed on said day, will be continued over from day to day thereafter at the same place and at the same hour until concluded.

Given this 3d day of Sept., 1853.

JOHN C. HALE,
By E. H. ENGLISH, *Atty.*

Served the within notice on Henry M. Rector, in Saline County, Sept. 6th, 1853, by handing him a true copy thereof, together with a true copy of the petition and order therein referred to & hereto attached.

WM. A. CRAWFORD,
Sh'ff Saline County, Ark.

Sh'ff' fee: Serving notice, 1.50; copy, 1.00; mileage, 60—$2.10.

Served the within notice on William H. Gaines & wife, Mariah Gaines, Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus Belding, deceased, by handing to James M. Curran, their attorney and agent, a true copy of the within notice, together with a true copy of the petition and order therein referred to and hereto attached.

Done in Pulaski County, Arkansas, Sept. 6th, 1853.

JOHN C. PRAY,
Sh'ff Pulaski County,
By H. BROGAN, *Dep'ty Sh'ff.*

Sh'ff' fee, .50.

To the honorable John C. Murray, judge of the Hot Spring circuit court of the State of Arkansas:

Your petitioner, John C. Hale, would respectfully show unto your honor that he is one of the claimants of the southwest quarter of section thirty-three, in township two south, of range nineteen west, in the county of Hot Spring, upon which the Hot Springs are situated, and

by virtue of a pre-emption of John Percifull, deceased, which quarter-section is also claimed by Henry M. Rector, under a New Madrid location, and Wm. H. Gaines & wife, and the other heirs of Ludovicus Belding, deceased, under a pre-emption; and your petitioner further shows that said heirs of L. Belding, deceased, have instituted an action of ejectment against your petitioner in the Hot Spring circuit court for said land, and judgment having been rendered against them, they appealed to the supreme court, where said suit is now pending. Your petitioner would further show that, if the said judgment should be reversed, and said case be remanded to the circuit court and tried anew, he may need the testimony of several witnesses who are now growing old and may die before their depositions can be taken legally in said case; and your petitioner further shows that he believes and expects that he will be made a party to a chancery suit hereafter to be brought among said parties in said circuit court, to settle the right to said land, and in which suit the validity of said pre-emption right of the said John Percifull, deceased, under the act of Congress of 1814, will be impeached and involved; and your petitioner believes that the testimony of Adam Stroud, Thomas Woodward, and James Neal will be necessary and vitally important to his rights in the trial of said cause, and he therefore prays your honor to grant him a commission, according to the statute in such cases made and provided, to take and perpetuate their testimony in relation to said pre-emption.

By said Adam Stroud, your petitioner believes he will be able to prove that the said John Percifull did inhabit and cultivate said quarter-section of land for several years prior to the 12th of April, 1814, and was in possession thereof at the passage of said pre-emption act, and that he never did remove from the Territory of Arkansas after the first settlement thereon, which was prior to the year 1810. By said James Neal your petitioner believes he will be able to prove that he, the said Neal, resided in the vicinity of the said Hot Springs since the year 1812, and that he knows that Percifull did inhabit and cultivate said quarter-section of land now embracing the said Hot Springs, several years prior to the 12th of April, 1814, and never did remove from said Territory of Arkansas. By said Thomas Woodward, your petitioner believes he will be able to prove that he visited said Hot Springs in the year 1816, and that the said John Percifull then occupied and lived on said tract of land, and that he boarded with him several weeks. The said Stroud lives on the military road in Clark County, in this State, and the said Neal in Hot Spring County, and the said Woodward in Camdem, Washita County, all in this State. Your petitioner prays your honor to have commissions issue to take said depositions according to law, that they may be used by him in the trial of any case involving the title to said springs and land, particularly in pre-emption right of said John Percifull, dec'd, thereto as aforesaid.

JOHN C. HALE,
By ENGLISH, & TRAPNALL & TRAPNALL.

HOT SPRING CO.:

I, John C. Hale, the petitioner aforesaid, do state that the facts set forth in the said petition are true, to the best of my knowledge & belief.

(Signed) J. C. HALE.

Subscribed and sworn to before me this 15th day of Jan'y, 1853.

L. RUNYON, *J. P.*

HOT SPRING COUNTY:

I, John C. Hale, the petitioner aforesaid, state that the facts set forth in said petition are true, to the best of my knowledge and belief.

J. C. HALE.

270 Subscribed and sworn to by the said J. C. Hale, before me, on the 5th day of March, 1853.

PHINEAS BARNES, *J. P.*

On examination of the foregoing petition of John C. Hale, I, as judge of the Hot Spring circuit court, do hereby grant the commissions therein prayed for; and the clerk of said court is hereby required to issue a commission to any judge of any court of record, or to any two justices of the peace, in the county of Clark, requiring such judge or justices to take the deposition of Adam Stroud; and that he also issue a commission to any judge of a court of record, or to any two justices of the peace of the county of Ouachita, requiring such judge or justices to take the deposition of Thomas Woodard; and that he issue, also, a commission to any judge of a court of record or any two justices of the peace in Hot Spring County, requiring such judge or justices to take the depositions of James Neal—the said John C. Hale first giving to every person who may be known to be interested in the premises, his attorney or agent, at least twenty days' notice of the time and place of taking said depositions respectively, and also delivering, with every such notice, a copy of the within and foregoing petition; and the clerk of said circuit court is hereby further required, immediately on the return of said depositions to his office in his officio capacity of recorder, to record them, and the papers and documents connected therewith, as required by law.

J. C. MURRAY,
Judge the Hot Spring Circuit Court.

STATE OF ARKANSAS,
County of Hot Spring:

The State of Arkansas to any judge of any court of record or to any two justices of the peace, in the county of Clark, in the State of Arkansas, greeting:

Know ye that the honorable John C. Murray, judge of our Hot Spring circuit court, having, upon the petition of John C. Hale, granted an order for the said Hale to take and perpetuate the testimony of Adam Stroud, of your county, touching his knowledge of the matter in controversy, or which may be hereafter in controversy, between said Hale and others, in reference to the title to the tract of land upon which the Hot Springs are situated, &c.:

Know ye that we, reposing confidence in your prudence and fidelity, do, by these presents, give unto you authority diligently to examine said witness, touching his knowledge of the matters aforesaid: Therefore, we do desire you at such time and place as shall be named to you for that purpose, you cause the said witness to come before you; that you then and there examine him upon his corporal oath, first taken before you; that you reduce his examination to writing; and when you shall so have taken them, that you send them, with the commissions, closed up under your seal, to us at Rockport, Arkansas, without delay.

Witness Jno. P. Emerson, clerk of said circuit court of Hot Spring County, and the seal of said court, at office, this 25th day of July, A. D. 1853.

[L. S.] JNO. P. EMERSON, *Clerk.*

The execution of the within writ on the reverse side of this paper appears by the schedule hereto annexed.

L. G. EVANS,
Judge of the Probate Court.

Deposition of witnesses taken and subscribed before me, Lawrence G. Evans, judge of the court of probate in and for the county of Clark, the same being a court of record, in the State of Arkansas, duly commissioned as such, the 21st day of October, A. D. 1853, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day at the residence of Adam Stroud, in the county of Clark, in the State of Arkansas, on the military road, in pursuance of a commission hereto annexed, to be read in evidence in any suit, action, or controversy, which may or shall arise, touching the validity or merits of a pre-emption claim of John Percifull, dec'd, to the southwest quarter of section thirty-three, in township two south of the base line, in range nineteen west of the fifth principal meridian, the same being the lands on which the celebrated hot springs of Arkansas are situated, said testimony being taken in pursuance and by authority of a petition to and order of the judge of Hot Spring circuit court, which is hereto annexed, and made a part hereof.

ADAM STROUD, to me well known as the person described in said petition, order, and commission, being at said time and place produced, and being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in regard to said pre-emption, did then and there, on his oath aforesaid, depose as follows, to wit:

I was acquainted with John Percifull in 1811. I was at the hot springs in 1811, 1812, and 1813, & 1814, and said John Percifull then and there lived. About 40 yards above the crack in the rocks, and the same distance below, there was one or two huts or small houses by springs, in which he lived and was recognized as the head and proprietor of the premises. He took in everybody that called on him. He had in cultivation a small field or patch on the east side of the creek at the head of the valley, and running down the creek to the edge of the mountain, out of which the hot water comes—the fence running up and down the creek, and close to the Rock Bath, but I cannot say whether the Rock Bath was inside of the field or not. A number of years afterward he moved to Red River, and staid there a short time; then returned to the springs. I am perfectly confident that he never left what is now the State of Arkansas, after he first settled at the springs. Before 1814, were called the Percifull Springs, and no person else was supposed to have any claim, and his claim was supposed to be a settlement-right; also the springs alluded to above are what is known as the Hot Springs of Arkansas. The deponent further sayeth not.

A. STROUD.

STATE OF ARKANSAS.
County of Clark:

I, Lawrence G. Evans, judge of the probate court, in and for the county of Clark, in the State of Arkansas, do hereby certify and make known that the foregoing deposition of Adam Stroud was taken before me, on the 21st day of October, 1853, between the hours, and at
271 the place named in the caption hereof above-mentioned; that the examination, responses, and statements of said witness were reduced to writing by me, and by the said deponent sworn to and sub-

scribed in my presence, at the time and place aforesaid; and that said deponent is a resident of the county of Clark, in the State of Arkansas.

In testimony whereof, I, Lawrence Evans, judge as aforesaid, do hereunto set my hand at Clark County, in the State of Arkansas, this 21st day of October, A. D. 1853.

L. G. EVANS,
Judge of Clark Probate Court.

STATE OF ARKANSAS,
County of Hot Spring:

I, John P. Emerson, clerk of the circuit court, and ex-officio recorder in and for the county of Hot Spring and State of Arkansas, do hereby certify that the annexed and foregoing deposition was filed in my office, on the 1st day of November, 1853, and that the same, with all the accompanying papers & documents, to wit, the notice to Henry M. Rector, and the heirs of L. Belding, deceased; petition of John C. Hale, for order, commission, &c.; order of the Hon. J. C. Murray, judge of the Hot Spring circuit court and commission to take the aforesaid deposition were duly recorded, on this day, in the record book of deeds, marked "D," on pages 311 to page 317.

In testimony whereof I have hereunto set my hand as such clerk and affixed the seal of said court, at office, on this 1st day of November, 1853.

JNO. P. EMERSON,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, A. H. Bassett, county clerk and ex-officio recorder, within and for the county of Hot Spring, State of Arkansas, do hereby certify that the foregoing forty-one pages contain a true and perfect copy from the records of said court, as the same appears in record "D," of deeds, pages 291 to 317, inclusive.

In witness whereof I have hereunto set my hand and affix the seal of said court, at Rockport, Ark., this 17th day of March, A. D. 1873.

[SEAL.] A. H. BASSETT, *Clerk.*

Article of agreement.—Henry M. Rector to John C. Hale & M. H. Woods.

This article of agreement and bargain and sale, entered into this eleventh day of May, A. D. eighteen hundred and forty-three, at the Hot Spring, and State of Arkansas, by and between Henry M. Rector, of the city of Little Rock, of the first part, and John C. Hale, of Hot Springs, and State *and State* aforesaid, of the second part, witnesseth: That whereas the parties here contracting are respectively interested in claims to the Hot Springs, the said Rector, by virtue of a New Madrid location, upon a warrant issued by Frederick Bates, recorder of titles for the Territory of Missouri, to Francis Langlois, which said certificate was many years since located on said Hot Springs as the United States plat will fully show; and the interest of the said Hale is derived from a purchase or article of agreement entered into by and between David Percifull and Sarah Percifull, of the first part, and Hale and Woods of the other part, which article of agreement bears date of the sixteenth of November, A. D. eighteen hundred and forty:

Now, therefore, the aforesaid Henry M. Rector by these presents conveys to the said John C. Hale, his heirs and assigns, an undivided

fourth part of said lands, (Rector's interest to the Hot Springs, or to the New Madrid claim aforesaid,) for and in consideration of the one-half of the said John C. Hale's interest, acquired as above stated, to the west half of section thirty-three, in township two south, of range nineteen west of the fifth principal meridian: To have and to hold all and every of the privileges and advantages, rents and profits, accruing thereon, to him the said Henry M. Rector, his heirs and assigns, forever. And the said Rector hereby agrees to pay to the said Hale the one-half of the value of the buildings in the Hot Springs Valley, included, however, in the following boundaries: To commence at the northwest corner of said Hale's present garden; thence west to the west boundary of said quarter-section; thence north with said boundary to the division-line of Hale and Woods; thence due east to cross Hot Spring Creek; thence south to a point as far south as the place of beginning. The aforesaid value of the buildings to be ascertained and estimated by disinterested and suitable persons, each of the parties here contracting to choose one of each persons, and those so chosen to select a third. And the said Rector hereby agrees to pay to the said Hale five hundred dollars at the expiration of fifteen months from the date thereof, and the balance in two equal instalments of two and three years from the date of this instrument. And the parties each aforesaid agree with the other that there is no judgment or mortgage which will affect the interest here conveyed. And the party of the first part agrees that the buildings herein spoken of are to all remain as security for the payment of the money which said Rector is to pay for them.

Witness our hands and seals at Hot Springs, day and date above written.

HENRY M. RECTOR. [SEAL.]
JOHN C. HALE. [SEAL.]

Attest:
E. CURLEY.
WILLIAM P. STRICKLAND.

NOTE.—The five hundred dollars, as well the other payments hereinbefore spoken of, are in consideration of the buildings.

HENRY M. RECTOR.
JOHN C. HALE.

Attest:
E. CURLEY.
WILLIAM P. STRICKLAND.

This day personally appeared the within Henry M. Rector and John C. Hale before me, Lawrence Runyon, clerk of the circuit court in and for the county of Hot Spring and State of Arkansas, and severally acknowledged that they each signed, sealed, and executed the foregoing instrument of writing for the uses and purposes therein named, as witnesses my hand and seal of office this 11th day of May, A. D. 1843.

[L. S.] LAWSON RUNYON,
Clerk of the Circuit Court in and for the County of Hot Spring aforesaid.

272 STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Lawson Runyon, clerk of the circuit court and ex-officio recorder in and for the county of Hot Spring, and State aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed

in my office on the 11th day of May, A. D. 1843; and the same is now duly recorded in record-book "B," pages 34, 35, 36.

In testimony whereof I have hereunto set my hand as clerk aforesaid, and affixed my official seal, at office, this 12th day of May, A. D. 1843.

[L. S.] LAWSON RUNYON,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, A. H. Bassett, county clerk and ex-officio recorder within and for the county of Hot Spring, in the State of Arkansas, do hereby certify that the foregoing is a true copy from the records of said court, as appears in record-book "A" of deeds, pages 34, 35, 36.

In testimony whereof I have hereunto set my hand and affix my seal of office, in Rockport, on the 17th day of March, A. D. 1873.

[SEAL.] A. H. BASSETT, *Clerk.*

OFFICE OF SECRETARY OF STATE, ARKANSAS.

I, J. M. Johnson, secretary of state, Ark's, certify that A. H. Bassett, whose genuine signature is signed to the above writing, was, at the time of signing the same, the county clerk in and for the county of Hot Spring, Ark's, duly commissioned & qualified

Witness my hand & seal of office, at Little Rock, this 4th day of April, 1873.

[SEAL.] J. M. JOHNSON,
Secretary of State,
By FRANK STRONG, *Deputy.*

(Indorsed:) 6203. John C. Hale vs. The United States. Certified copies of testimony perpetuated under the laws of the State of Arkansas. Filed by clmt.'s counsel, April 23, 1873. J. R.

Certified copy of testimony in the case of Wm. H. Gaines et al. vs. Hale and Rector, in the supreme court of the State of Arkansas.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that John C. Hale, as the legal representative of John and Sarah Percifull, deceased, in right of himself and David Percifull, the son of the late deceased, above stated, this day personally appeared before me, the undersigned, an acting justice of the peace within and for the county aforesaid, and on his oath deposes and says that he is about fifty years of age, the head of a family, consists of himself, wife, and six children; that for near' ten years he has been an actual settler and cultivator on the southwest quarter of section thirty-three, in township two south, of range nineteen west; that he and one Milus H. Woods purchased all the improvements and possessions on the 16th of November, 1840, together with all the right, title, and interests that they had in and to one-half of the said John and Sarah Percifull' right of pre-emption of the 12th of April, 1814; and further deposes and says that he was an actual settler on the above southwest quarter of section thirty-three on the first day of March, 1843, by personal residence, and now in possession of a large part of the improvements, and claims the right of becoming the purchaser under the provisions of 3d sec. of an act of Congress entitled "An act to perfect the

title to lands south of the Ark'sas River," held under the New Madrid location and pre-emption act of the 12th of April, 1814, and now in possession of said southwest quarter before described, by personal residence of himself and family, and has cultivated in said quarter section, known to him as being the southwest quarter of section thirty-three, in T. 2 S., R. 19 W. of the fifth p. m., had not a New Madrid location prevented such subdivision. Furthermore he says not.

JOHN C. HALE.

Sworn to and subscribed before me this 10th day of June, A. D. 1850.

LAWSON RUNYAN, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring :

This day personally appeared before me, Charles Burke, an acting justice of the peace in and for the county aforesaid, LAWSON RUNYAN and JOHN W. FULLERTON, to me personally well known as competent witnesses in law, entitled to full credit as such, and, being duly sworn for the purpose, states on oath that they are personally well acquainted with the circumstances and things set forth in the foregoing depositions of John C. Hale; that they are true in substance and in fact.

LAWSON RUNYAN.
J. W. FULLERTON.

Sworn and subscribed to before me this 20th day of June, 1850.

CHARLES BURKE, *J. P.*

STATE OF ARKANSAS, *sct :*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a true copy of the depositions of John C. Hale, Lawson Runyan, and J. W. Fullerton, as the same are to be found upon page 64 et seq., part 2, of a transcript now on file in my office, the same being a transcript of the record of the case of W. H. Gaines et al. v. John C. Hale and Henry M. Rector, on appeal from the circuit court of Hot Spring County to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court this 22d day of March, 1873.

[SEAL.] N. W. COX, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring :

Be it remembered that JAMES NEAL, a citizen of said county and State, with whome I am personally well acuq'nted in *w*right of leagal representatives of John Percifull and Sarah Percifull, dec'st, this day personally appeared before me, the undersigned, an acting justice of the
273 peace within and for Hot Spring Township, and county & State aforesaid, and on his oath deposes and says that he is about six'-one years of age or thereabouts; that he has resided in the visinity of Hot Spring, in said State of Arkansas, ever since the year 1812. In said year he was frequently in the company of one Thomas Holman, a young man, whoe lived with John Percifull above stated, at the Hot Springs aforesaid. In the summer of 1812 he went to the Hot Springs aforesaid, and found the said Thomas Holman still living with the said John Percifull at said springs; that he there became well acquainted with said Percifull, then in possession of said springs, claiming them by settlement-right. He had at that time a house within fifty yards of

one of the main hot springs, and he does believe that the ground whare the said Percifull's house then stood is now covered by John C. Hale's hottell. He also had at that date, to wit, A. D. 1812—he, the said Percifull, had—a garden, or truck-patch, as he so cawl'ed it, a mediafety east of Hot Spring Creek, clost up to Hot Spring Mountain, in which there was a cultivation of vegetables, and was cawl'ed the said Percifull's truck-patch, tho'e I did not see Percifull or any other person cultivating the same, tho' that and all other improvements were called Percifull's, and I he'rd of no other claim.

He further deposes and says that, in the spring & sum'er of the year A. D. 1814, John Percifull and Sarah Ubanks lived at said Hot Springs, and kept a house for the accommodation of such as did not come prepaired to board themselves; that he was ther' in said year, found them in possession of the same house that Percifull occupied in 1812, and the same garden was still cultivated and cawl'ed Percifull's; and some short time afterwards it was sayed that Percifull had married this said Sarah Ubanks, which I believe to be a fact, for I never heard it contredicted by those best acquainted with them. He says that said Percifull and his wife Sarah has but one heair living, which is David Percifull, of this county. He further deposes and says that the houses and garden aforesaid *is* now embraced by survey in the southwest quarter of section thirty-three, in township two south, of range nineteen (19) west of the 5 p. m., in the district of land subject to sale at Washington, Arkansas. He fourther deposes and says that the said John Percifull and Sarah, the widow of the said John Percifull, did hold possession, by themselves and tenants, up to the time of their death, and John C. Hale, under a contract made and entered into on the 16th of November, A. D. 1840, with Sarah and David Percifull, the widow and son of the said John Percifull, deceased; and that said Hale has been in possession, under said contract, to his knowle'ge, ever since the year 1841; and the said John C. Hale and family, to my knowle'ge, has cultivated on said southwest quarter of section thirty-three, in township two south, of range nineteen west of the 5 p. m., each and every year since the year A. D. 1841; also cultivated in that year. And he further deposes and says that that said John C. Hale did reside and was a settler, by personal residence of himself and his family, on the first day of March, eighteen hundred & forty-three, on said southwest quarter section of sect. 33, as above described and now in possession of the same by himself and family. And he fourther deposes says that his acquaintance with the persons whose names *is* set fourth in the foregoing depositions compell' him to say that they are undoubted' correctness, & full credit should be given to each and all of their testimony. He further deposes and says, in the sum'er or spring of 1814, at the same time above, that he seed Thomas Holman, at the spring, he seed one Warren Denham, or a short time after. Fourther he says not.

JAMES NEAL.

Sworn and subscribed to before me this 10th day of June, A. D. 1850.
LAWSON RUNYON, *J. P.*

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a true and full copy of the deposition of James Neal, as the same is found upon page 67, part 2d, of a transcript now on file in my office, the same being the transcript in the case of Wm. H. Gaines et al., appellants, agst. John C. Hale and Henry

M. Rector, appellee, on appeal from the Hot Spring circuit court to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, this 22d day of March, 1873.

[SEAL.] N. W. COX, *Clerk.*

STATE OF ARKANSAS,
County of Hempstead, sct.:

Before the undersigned, an acting and duly-commissioned justice of the peace, personally appeared WILLIAM H. ETTER, who deposes as follows:

That, in the year 1851 I was register of the United States land-office at Washington, Arkansas; that, in the month of January of that year, certain pre-emption claims for lands embracing the Hot Springs in Arkansas were referred to the register and receiver of the Land-Office at Washington for investigation; that the first claim placed before them for investigation was the claim of John Percifull, deceased; that, after the investigation of said claim, and while the officers were engaged in investigations the claim of Belding's heirs, as near as I can now recollect, the representatives of Percifull introduced a Mr. Adam Stroud, whose testimony the' wished to be taken in support of the Percifull claim, and considered as evidence; but this was refused, solely, I think, because the investigation of the Percifull claim had been closed. It is also my impression that George Conway, the attorney for the representatives of Percifull, filed a protest at the time against this decision of the land-officers, which protest it is my impression was forwarded to the General Land-Office at Washington, with the testimony and other papers in the case.

W. H. ETTER.

Sworn to and subscribed before me this 7th day of September, A. D. 1855.

R. L. PHILLIPS, *J. P.*

STATE OF ARKANSAS,
County of Hempstead, sct.:

I, Simon T. Sanders, clerk of the circuit court and ex-officio clerk of the county court of Hempstead County, in the State of Arkansas, (which said courts are courts of record,) do hereby certify that Robert L. Phillips, esq., whose signature appears to the foregoing certificate, is now, and was at the time of signing the same, an acting justice of the peace for said county of Hempstead, duly commissioned and sworn.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of said court, at my office in the town of Washington, the 8th day of September, A. D. 1855.

[L. S.] S. T. SANDERS, *Clerk.*

274 STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a true copy of the deposition of Wm. H. Etter, as the same is found on page 96, part 2, of a transcript now on file in my office, the same being the transcript of the record in the case of Wm. H. Gaines et al., appellants, ag'st John C. Hale and Henry M. Rector, appellees, on appeal from the Hot Spring circuit court to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 22d day of March, 1873.

[SEAL] N. W. COX, *Clk.*

The deposition of IRA T. GRANT, taken on the 11th day of December, A. D. 1860, who deposes: "That I became acquainted with Ludovicus Belding, deceased, in January, A. D. 1828, who was the father of the defendants in this suit. I made his acquaintance at the Hot Springs, then in the Territory of Arkansas, at which time I was employed by Mr. Belding to make some rails to fence up a garden. I asked Mr. Belding if he had purchased the springs from Percifull. He answered, no; that if he had leased or rented the springs and improvements from John Percifull for the term of five years, and that he was to pay his lease or rent by making improvements on the premises, and that it 1829 he hired me to build four cabins for him on said premises, which I did. I understood from Belding himself that he had the houses put up or built expressly for the purpose of complying with his contract and paying Percifull his rent. Belding paid me one hundred and twenty dollars for building the cabins. Myself and one James Williams made a crop by cultivating some thirty-five acres of land for said Belding, in the year 1829, on his farm on the Gulpha, six miles from Hot Springs. The place is now owned by W. H. Gaines and known as the Belding place.

Mrs. Hale, the wife of the plaintiff, (John C. Hale,) came to my house after bed-time, a very cold night in January, 1851, for the purpose of getting me to attend as a witness in behalf of the Percifull claim before the register and receiver at Washington, Arkansas, January 20th, 1851, and I was sworn and examined on the part of Henry M. Rector, and the reason that I was not sworn and examined on the part of the heirs of Percifull is that the register and receiver had closed their testimony, by an examination of their documentary testimony, before my arrival. They also refused to swear Jester Cox and Adam Stroud, on the part of Percifull's heirs, who *was* presented by John C. Hale, the representative of Percifull.

James Neal, one of Hale's witnesses, was absent from Hot Springs County on the 20th day of January, 1851. I have known John C. Hale being at Hot Springs since 1844.

IRA T. GRANT.

Deposition of ABIGAL SABIN, taken on the 11th day of December, A. D. 1860, who deposes and says: "That I made the acquaintance of John C. Hale in the year 1835. He moved to the Hot Springs in January, 1841, as a permanent resident, and took the possession of the improvements of Sarah Percifull, widow of John Percifull, at Hot Springs, and has resided at said springs on a tract of land known and designated as the southwest quarter of section thirty-three, township two south, range nineteen west of the fifth principal meridian, ever since. And he cultivated a portion of said tract in 1841, and each successive year since. I believe I never was acquainted with Mr. Belding, and know nothing about the contract of him and Mr. Percifull. I have heard Mrs. Percifull and David Percifull say that they had sold their pre-emption right to John C. Hale and one Milus H. Woods.

A. SABIN.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing three pages of manuscript contain a full

and true copy of the depositions of Ira T. Grant and Abigal Sabin, as the same are to be found in the transcript p't 5, pages 10 and pages following, now on file in my office, of Wm. H. Gaines et al., appellants, ag'st John C. Hale and Henry M. Rector, appellees, on appeal from the Hot Spring circuit court to the said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 22d day of March, 1873.

[SEAL.] N. W. COX, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that, on the seventh day of July, in the year eighteen hundred and fifty-four, GEORGE CONWAY, to me personally known to be a creditable witness, came before me, the undersigned, a duly qualified and acting justice of the peace within and for the county of Hot Spring aforesaid, and, being by me first duly sworn, deposeth and saith on his oath as follows, to wit:

At the request of John C. Hale, of Hot Springs, I attended as an attorney before the register and receiver of the land-office at Washington, Arkansas, in the month of January, A. D. 1851, during the investigation of the several claims to the lands upon which the Hot Springs are situate, to represent the claim of Percifull's heirs to a pre-emption right to said lands; that, on the twentieth day of January, A. D. 1851, said officers called up the pre-emption claim of John Percifull, deceased, and the said John C. Hale, *was* agent for the heirs of the said John Percifull, moved the officers to postpone the investigation of said claim and to commence with the investigation of some other claim, and in support of said motion stated that Adam Stroud and Jester Cox, witnesses in support of the Percifull claim, were not present, and that they had promised to be in attendance as witnesses on that day, but had not yet arrived; that they lived each in one day's ride of the place of trial, and that he would send a special messenger for them; which motion was opposed both the agents and attorneys representing the New-Madrid location and the claim to pre-emption of Belding's heirs; and the land-officers overruled the motion of Hale, as agent as aforesaid, and ruled that he should then proceed with the Percifull claim, stating that they would receive such testimony as he could then produce, and that they would allow him a reasonable time to produce his witnesses, Stroud and Cox, or any other witnesses he might bring before them.

275 That the agent and attorney then introduced several witnesses to prove the death and character of several of the witnesses whose testimony had been previously taken and reduced to writing and sent back by the Land-Office Department to said officers for a re-investigation of said pre-emption claim upon its merits, and also introduce the written testimony so remanded; no other witness in support of said claim having as yet arrived, said agent then rested for the present.

That several witnesses adverse to the claim were then introduced by the parties opposed to said claim. The witnesses in support of said claim not having as yet arrived, the officers, on the twenty-third of said month, as I now recollect, called up the claim to pre-emption of Ludovicus Belding, deceased, for investigation, and this case remained open, and was then being investigated, until on or about the twenty-eighth day of said month, as well as I now recollect.

That on the twenty-fourth or twenty-fifth day of said month, *that* the said Stroud and Cox arrived, and the agent and attorney for Percifull's heirs, on one of those days, as I now recollect, but certainly while the

case of Belding's heirs was before the officers, and while the parties representing the New-Madrid location and Belding's claim were present, brought said Stroud before the said officers, and requested that he and the said Cox should be examined, stating that their testimony was material in support of the claim of Percifull's heirs; that said witnesses would prove, if examined, that John Percifull, deceased, in his life-time was an actual inhabitant of the lands upon which the Hot Springs are situate, and did cultivate a portion thereof previous to the twelfth day of February, A. D. 1814, and that said Percifull never did remove from the Territory, where he so resided until his death, and insisted that their testimony would clearly establish (if admitted) the claim of Percifull's heirs to a pre-emption to be valid and good, and that said officers refused to examine said witnesses, or either of them, though they admitted that they knew the men to be creditable witnesses, giving a reason for their refusal, that they considered that it was too late to take any further testimony in favor of the Purcifull claim at any time after having commenced taking evidence in support of the Belding claim to pre-emption; and I, as the attorney representing Percifull's heirs, did write out a statement of these facts at the time in the nature of a protest, and did request said officers to sign and file the same among the papers, and to refer the same to the Department for their consideration. The officers promised that they would return all the facts, but I cannot now recollect whether they then signed the protest or not; but they distinctly, according to my recollection, promised that the Department should be put in possession of all of the facts, for that they would made an entry thereof in their formal report, after they should come to their conclusions in relation to the several matters to them submitted. They received the paper, and, I suppose, they signed it.

GEO. CONWAY.

Sworn to and subscribed before me this July 7th, 1854.

P. BARNES, *J. P.*

And, at the same time and place, personally came IRA T. GRANT, a witness known to me to be credible, and, being by me also duly sworn, states on oath as follows, to wit:

I am the same man who was examined as a witness in the controversy about the lands embracing the Hot Springs, before the register & receiver of the land-office at Washington, Arkansas, in January, A. D. 1851; that I was present before said officers when the attorney for Percifull's pre-emption brought in Adam Stroud and requested the said officer' to take his testimony, and the testimony of Mr. Jester Cox, in support of the Percifull claim. The attorney for the New Madrid location, and the attorney for the Belding claim, both objected to the officers receiving said testimony at that time, saying it was then too late, as they were then investigating the Belding claim, and the officers refused to swear the witnesses or receive their testimony upon that ground. They said they knew the witnesses to be good men, but that they considered that after they had taken up the Belding claim *that* they could hear no further testimony in support of the Percifull claim. Mr. Conway, attorney for the Percifull claim, then made a paper, which they called a protest, stating that he expected to and could prove by these witnesses, if the officers would examine them, that the Percifull claim to pre-emption, under the act of 1814, was good and valid, for that they would swear that John Percifull in his life-time did live and actually resided upon the lands embracing the Hot Springs, and did cultivate a

portion thereof previous to the twelfth day of April, in the year eighteen hundred and fourteen, and that he never did remove from the Territory where he then resided until his death, and requested the officers to sign the paper containing these facts, and file it among the papers and send it up. The officers took the paper, and promised to report all the facts to the Department, so that the Department might see the whole case just as it was before them.

And further this deponent saith not.

IRA T. GRANT.

Sworn to and subscribed before me this 7th July, 1854.

P. BARNES,
J. P. Hot Spring County, Ark's.

STATE OF ARKANSAS, *ss:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing eight pages of manuscript contain a full and true copy of the depositions of George Conway and Ira T. Grant, as the same are to be found upon page 101 et seq., part 2d of a transcript now on file, purporting to be a transcript of the record and proceedings had in the Hot Spring County circuit court, in the case of John C. Hale, plff., ag'st Wm. H. Gaines et al., defts., and by the said Wm. H. Gaines et al. appealed to our said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 20th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

And, at the same time and place, JONATHAN IRONS personally came before me, the undersigned justice of the peace, and being me duly sworn, deposeth and on his oath says as follows, to wit;

I am the same man who was examined as a witness in the controversy about the lands embracing the Hot Springs, in the State of
276 Arkansas; that, after the case of Percifull's claim to pre-emption was taken up, and which said investigation was pending, I was employed by John C. Hale, as agent of the Percifull claim, to go as a special messenger for Adam Stroud, a witness in favor of the Percifull claim. I returned with said Stroud to Washington, on Thursday, the fourth day of January, A. D. 1851. I got to Washington with Stroud after night of that day. Next day, as well as I now recollect, Mr. George Conway, as attorney for the Percifull pre-emption, brought up said Stroud before the officers and requested that he might examine, as a witness in support of the Percifull claim; and also stated that Mr. Jester Cox, another witness, was also now in attendance. The lawyers for the New Madrid location and for the Belding claim objected to the testimony being taken, as they were then investigating the Belding claim, and the officers refused to receive the testimony of Stroud and Cox, upon the ground that it was then too late, as they were then engaged in the Belding claim. The attorney for Percifull's claim stated said witnesses would establish the Percifull claim as valid. The officers still refused to receive the testimony, and the attorney then wrote out a protest, as he called it, stating that he would prove by said witnesses that John Percifull did cultivate and reside upon the lands embracing the Hot Springs, before the year 1814, and never did remove from the Territory, or something amounting in substance to that effect, and requested the officers to sign the same and file it among the papers, and report the facts to the Department for their decision. The officers received the paper for filing, and promised to make a record of all the

facts, so that the Department might see the whole case just as they saw it. And further this deponent saith not.

J. B. IRONS, *J. P.*

Sworn to and subscribed before me this 7th July, 1854.

P. BARNES, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Phineas Barnes, an acting and duly commissioned justice of the peace, within and for the county and State aforesaid, do hereby certify that the foregoing depositions of George Conway, Ira T. Grant, and Jonathan Irons, were by me taken and reduced to writing in my presence, on the seventh day of July, in the year 1854; and that I am not interested in the controversy about the Hot Springs, nor of kin to any one interested in said controversy; and that said witnesses are men entitled to full credit on their oaths.

Given under my hand this 7th July, A. D. 1854.

P. BARNES, *J. P.*

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify that the above and foregoing is a true copy of the deposition of Jonathan Irons, as the same is found upon page 69, part 2d, of a transcript now on file in my office, the same being a transcript of the case of Wm. H. Gaines et al., appellants, ag'st John C. Hale & Henry M. Rector, appellees, on appeal from the Hot Spring circuit court to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court, a Little Rock, this 22d day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

The statement of Sarah Perciful, made on oath, in the house of Samuel P. Corsan, in the town of Hot Spring, in the county of Hot Spring, State of Arkansas, on the 2d day of June, 1838.

This affiant states that, on the 5th of May, 1814, she reached the Hot Springs in company with her uncle and others, and her uncle rented a cabin and a small piece of ground from John Perciful, who was then in possession of and claiming the springs; and all the houses, clearings, and improvements claimed by John Perciful were on the same quarter-section with the Hot Springs, and near to the springs. Affiant states that there were a number, probably thirty, of cabins and shelters around the springs, and between an acre and an acre and a half of land cleared, all claimed by John Perciful; and, as far as this affiant knows, was claimed by no one else at that time. The clearing was under fence, and the fence was an old one, and not a new rail on it, as I saw and recollect, and in condition then to be sowed or planted, and a part of it my uncle rented for a garden. The place, that is, the clearing, looked as if it had been cleared some time and been in cultivation for several years prior to that time. At this time, viz, 5th May, 1814, and a few days after, there were old corn-stalks on the portion rented by affiant's uncle, and squash-vines and cabbage-stalks and pea-sticks; and affiant understood from many persons at the springs, that the clearing spoken of had been in cultivation several years before by Perciful, and others living in his cabins, and to whom he had rented. Perciful was in possession, claiming to be, and understood by all to be, the sole proprietor, and every one

that came to the springs rented of him. In the summer of 1814, there was a family by the name of Foster, who stated that they had been to the same place in the summer of 1813, and that they had rented a part of the same clearing from Perciful, and raised vegetables on it. In January, 1815, affiant was married to John Perciful, and they have been in posssession of the springs ever since. At one time they went to Red River and remained about nine or ten months. This was in 1819; but during that time Perciful had rented, as usual, to persons who came to the springs, and returned once, while she was absent, to the springs. There was a Frenchman by the name of Joseph Martin, who had an improvement on the Washita, about seven miles from the springs, who became so afflicted that he was incapable of taking care of himself, and Perciful took care of him, and he was kept and attended to after that by Perciful and his family. The place on Washita was claimed by Martin as his settlement-right under of 1814, and he gave it to Perciful for his kindness and attention to him. Martin lived until 1819, and then died, and Perciful had and retained possession of that place, under the gift from Martin before spoken of, but never claimed the place as a settlement-right. There was a man by the name of Ebenezer Fulsome, who had a settlement on the Washita River, near to that of Joseph Martin, who moved his family and cattle up in 1814, near to the hot springs, and into a house that, at that time, looked like a new one. As this affiant recollects there was no cultivation or clearing or im-
277 provement on Fulsome's place, except a pole-fence around the house and cow-pen.

In 1815, this affiant thinks Fulsome got a man by the name of Lovelass to run off his settlement-right at his place on the river, and claims it under the pre-emption-law of 1814, and never, as far as this affiant knows, in his life-time, made claim to the springs, by virtue of the house and improvements before spoken of, but that the house was made to bring his family up for the use of the water, and to give his cattle the benefit of the summer range.

Perciful came to the springs in 1809, as he told this affiant before they were married, and commenced his improvements, and he made many persons build these houses for the use of the waters and board, &c. John Perciful died the 26th of July, 1835, and has but one child, David Perciful, who is his only heir, and this affiant is his widow. Th possession of the springs has never been relinquished, but has continued in said Perciful and this affiant from 1814, as this affiant knows of her personal knowledge, up to this date, the 2d of June, 1838, without interruption. And further this deponent sayeth not.

her
SARAH + PERCIFUL.
mark.

Sworn to before me and subscribed in my presence by Mrs. Sarah Perciful, to me personally well known, at the Hot Springs, in Hot Spring County, in the State of Arkansas, this 2d day of June, A. D. 1838.

DANIEL RINGO,
Chief-Justice of the Supreme Court of the State of Arkansas.

Additional testimony of Sarah Perciful.—July 2d, 1838.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that, on the 2d day of July, in the year of our Lord

one thousand eight hundred and thirty-eight, SARAH PERCIFUL personally came before me, the undersigned, a justice of the peace, in and for the county of Hot Spring, and State aforesaid, and being by me first duly sworn, deposeth and saith:

That, in addition to the deposition made by the said Sarah, before Daniel Ringo, chief justice of said State, on the 2d day of June ultimo, in the case of a pre-emption right having been claimed by her late husband, John Perciful, deceased, and which claim includes the hot springs, deposeth and saith, that she is unlearned and has no knowledge of letters or figures, and therefore cannot say of her own knowledge anything about sectional, township, or other lines. But from what she was told by the deputy-surveyor, (Mr. Hale,) who surveyed the township, or the part on which she lives, and also from what she has been told by others who understand, she believes the quarter section which contains and include the Hot Springs to be the southwest quarter of section (33,) thirty-three, of township two south of the base line, in range nineteen (19) west of the fifth (5th) principal meridian. Affiant further states that one Lodovico Beld*au* leased said springs and improvements from her husband, John Perciful, in the year 1828, for the term of five years, and the said Beld*au* lived on the said quarter section, which includes the springs, and cultivated a garden, which had for many years before by Perciful or his lessees, about one-half of which clearing is on the quarter section which includes the hot springs as afore-described, for two years, to wit, the years 1828 and 1829; and the said Beld*au* also cultivated a garden attached or near to the houses he occupied, all of which garden is included in the quarter section before described. The before-mentioned gardens were cultivated in various vegetables and some corn, in both the years which Beld*au* resided at the springs, to wit, in the years eighteen hundred and twenty-eight and eighteen hundred and twenty-nine (1828, 1829.) Affiant further states that in the latter year, (1829,) or thereabouts, he, Beld*au*, sold his lease to one Asa Thompson; said Thompson occupied said springs for one year, and sold out to one Richard C. Hawkins, who kept the springs the remaining two years, then delivered the possession over to Perciful. Perciful shortly afterwards sold half his interest to said pre-emption to James Conway, esq., now governor of this State, and the springs were leased to, or put in the possession of, Samuel Rayburn, brother-in-law of said Conway; and, since the death of my husband, I purchased the right of Governor Conway, which had been conveyed to him by my husband, and he conveyed to me by deed. All of which is matter of record in the office of the clerk of the court for the Hot Spring County and State aforesaid, and the possession was restored to her, and the said Sarah and her son, David—to her in right of the half sold by her husband and reconveyed to her by Conway, and to her son in his own right as only heir to the remaining half, and which possession I, the said Sarah, have held in person ever since.

her
SARAH + PERCIFUL.
mark.

Sworn to and subscribed in my presence by Sarah Perciful, to me well known, and who is entitled to full faith and credit on oath, at the Hot Springs and State aforesaid, on the 2d day of July, A. D. 1838.

S. A. EMESON, *J. P.*

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas,

certify that the above and foregoing seven pages of manuscript contain a full and true copy of the depositions of Sarah Perciful as the same are to be found on pages 99 and 105, book 2, of a transcript now on file in my office, purporting to be a transcript of the record and proceedings had in the Hot Spring County circuit court in the case of John C. Hale, plff., ag'st Wm. H. Gaines et al., defts., and by the said Wm. H. Gaines et al., appealed to our said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 20th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

The statement of Silas Dodd, made at the office of Jesse Brown, esq., in the town of Little Rock, Pulaski County, Ark's, on the 6th June 1838, *on oath.*

This affiant states that, in 1812, and, he thinks, in the month of June, he was at the hot springs, in Arkansas, and that John Percifull, dec'd
278 was in the possession of them. There was several cabins around the springs, and about an acre cleared, fenced round, and in cultivation in peas', beans, pumpkins, and other truck; and affiant understood from Percifull and every one there that it was Percifull's.

Affiant states that he understood, and from all the information he had at the time, viz, 1812, he verily believes, the place and improvements belonged or was claimed by John Percifull, dec'd, and that was the belief and statement of every one at the springs with whom he spoke on the subject, and it was frequently the subject of conversation, and he never heard of any other claim at the time.

Affiant has been long acquainted with Warren Denham and Mrs. Sarah Percifull, widow of John Percifull, dec'd, and states that any facts stated by them on oath are entitled to the greatest credit, and their characters for veracity and truth never has been impeached so far as this affiant knows or believes.

SILAS DOD.

Subscribed and sworn to before me, Jesse Brown, mayor of the city of Little Rock, and justice of the peace, by the said Silas Dodd, according to law.

Given under my hand this 6th day of June, 1838.

J. BROWN, *Mayor.*

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the deposition of Silas Dodd, as the same is to found on page 41 of part 2nd of the transcript of the record and proceedings had in the case of William H. Gaines et al., appellants, against John C. Hale and Henry M. Rector, appellees, on appeal from the Hot Springs circuit court to said supreme court, as the same is now on file in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 20th day of March, 1873.

[SEAL.] N. W. COX, *Clerk.*

The deposition of JAMES NEAL, taken on the 22d day of October, A. D. 1860, who deposes that he is about seventy-two years of age, or thereabouts; that he had resided in the vicinity of Hot Springs, in the State of Arkansas, from the year 1812 up to the year 1855. In said

year, 1812, he was frequently in the company of one Thomas Holman, a young man who lived with John Percifull, who lived at the Hot Springs aforesaid. In the summer of 1812 he went to the Hot Springs aforesaid, and found the said Thomas Holman still living with the said John Percifull at said springs; that he then became well acquainted with Percifull—John Percifull—then in possession of said springs, claiming them by settlement-right. He had then a house, situated within fifty yards of one of the main hot springs; and that he believed that the ground where Percifull's house stood is now covered by John C. Hale's hotel. He also had, at that date, to wit, A. D. 1812—he, the said Percifull, had—a garden or truck-patch, as he so called it, immediately east of Hot Spring Creek, close up to Hot Spring Mountain, in which he was then cultivating vegetables, and was called the said Percifull's truck-patch. I did not see Percifull or any one else cultivating said patch, though it and all other improvements were called Percifull's, and I heard of no other claim.

He further deposes and says that in the spring and summer of 1814 *that* the said John Percifull and Sarah Ubanks lived at said Hot Springs and kept a house for the accommodation of such as did not come prepared to board themselves; and that he was there in the said year 1814, and found them in possession of the same house that Percifull occupied in 1812, and the same garden still cultivated and called Percifull's. And some short time afterwards it was said that Percifull had married the said Sarah Ubanks, which I believe to be the fact, for I never heard it contradicted by those best acquainted with them. They lived together as man and wife up to the time of his, Percifull's, death, which took place, he thinks, in 1836.

He further deposes and says that neither the said John Percifull nor Sarah, his wife, ever did remove from the Territory of Arkansas, since his first acquaintance with them; that the said Percifull and his wife, Sarah, have but one heir, which is David Percifull, now deceased, formerly of *of* Hot Spring County, Arkansas.

He further deposes and says that the house and garden aforesaid is now embraced by a survey in the southwest quarter of section thirty-three, in township two south, range nineteen west of the 5th principal meridian, in the district of lands subject to sale at Washington, Arkansas.

He further deposes and says that the said John Percifull and Sarah, his widow, did hold possession by themselves and tenants up to the time of his death, and John C. Hale, under a contract made and entered into on the 16th day of November, A. D. 1840, with Sarah and David Percifull, the widow and son of the said John Percifull, deceased, and that said Hale has been in possession, under said contract, to his knowledge, ever since the year 1841. And the said John C. Hale and family, to my knowledge, have cultivated on said southwest quarter of section thirty-three, in township two south, range nineteen west of the 5 p. m., each and every year since the year 1841; also cultivated in that year.

And he further deposes and says that the said John C. Hale did reside, and was a settler by personal residence of himself and family, on the first day of March, 1843, on said southwest quarter of section thirty-three, in township two south, range nineteen west of the 5 p. m., and is now in the possession of the same by himself and family.

He further deposes and says, in the summer or spring of 1814, that he saw Thomas Holman at Hot Springs; also Warren Dunham.

Questions by plaintiff:

1st question. At what time did you become acquainted with John

Percifull, deceased, the claimant of a pre-emption right to the tract of land embracing the Hot Springs aforesaid?

Ans. In the summer of 1812.

2d question. Where did you first become acquainted with him?

Answer. My first acquaintance with him was in Hot Spring Valley, at that time in the Territory of Arkansas, now known as the Hot Springs in Arkansas.

3d question. In what business was he engaged at said Hot Springs at the time of your acquaintance with him?

Answer. Was at that time keeping a few boarders and living at said Hot Springs in a little log cabin.

4th question. Was there any more cabins or shanties claimed by him than that in which he was living?

Answer. Not that I recollect of. There was none claimed by any one else at that time, to my knowledge.

279 5th question. Did you see any cultivation there in that year?

Answer. None at all, that I saw, with the exception of a small patch which was called then Percifull's garden or truck-patch, which was situated on the east side of Hot Spring Creek, extending up towards the foot of the mountain, right above the upper main hot spring, as was called those days, and is called the upper these days.

6th question. Do you recollect who called it Percifull's?

Answer. I don't recollect of any particular person, with the exception of Percifull himself.

7th question. Was there any person living with Percifull at that date?

Answer. There was a young man I was acquainted with previous to that time, by the name of Thomas Holman, that told me at that time that he was living with John Percifull, and I saw him doing things about the cabin.

8th question. How far was the residence or house Percifull inhabited at that time from the Hot Springs and garden and the place where John C. Hale's house now stands?

Answer. I should suppose, according to my recollection, that it was between forty and sixty steps from the hot water, not very far from the center of the main hot water, and, as near as I can guess, between two hundred and seventy-five yards to what was called this garden or truck-patch, and about where John C. Hale's main building now stands.

9th question. How long before you visited the Hot Springs again?

Answer. As well as I recollect it was some time in the fall. I was in Hot Spring Valley again in eighteen hundred and fourteen.

10th question. Who did you find living in the same house that Percifull was living in eighteen hundred and twelve?

Answer. Percifull was in the same building himself.

11th question. Where have you principally lived since eighteen hundred and twelve?

Answer. My home has been within fifty or sixty miles of Hot Spring Valley, in Arkansas, until 1855; since in Texas.

12th question. Do you ever know of Percifull's having moved from said Territory, after your first acquaintance with him?

Answer. I know he never did move from said Territory.

13th question. Upon what quarter-section was the buildings, improvements, and cultivation of said Percifull situated?

Answer. They were on the quarter-section embracing the hot springs, and partly covered by Rector's New Madrid location, as I am informed.

14th question. Where were you in January 20th, 1851, when the in-

vestigation between the parties claiming the Hot Spring was had, before the register and receiver at Washington, Ark's?

Answer. I was on a steamboat, on my way from Little Rock to New Orleans.

15th question. Did you ever hear Percifull say he claimed the Hot Springs by virtue of his settlement-right?

Answer. I did.

16th question. Did you ever hear any one else claim said Hot Springs, by virtue of settlement-right previous to 1814?

Answer. I did not.

17th question. What is your age?

Answer. Seventy-two years old July last.

And further this deponent saith not.

his
JAMES × NEAL.
mark.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the deposition of James Neal, (there being no certificate of the officer before whom it was taken to it,) as the same is found on page 1, part 5, of the transcript of the record, in the case of Wm. H. Gains et al., appellants, ag'st John C. Hale and Henry M. Rector, appellees, on appeal from the circuit court of Hot Springs County to the supreme court of the State of Arkansas, as the same is now on file in said court.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, this 20th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

The statement of Warren Dunham, made on oath in the house of Samuel P. Carson, in the town of Hot Spring, in the county of Hot Spring, State of Arkansas, on the 2d day of June, 1838.

Affiant reached the Hot Springs on the 18th of June, 1814, and found between twenty and thirty cabins erected about the springs, and about one acre and a half of land cleared and under fence, and had the appearance of having been cultivated for several years before; and a man by the name of John Gibbons told affiant that he had rented a part of it for two years before from John Perciful, and cultivated it when affiant reached the springs. The clearing was under cultivation, principally in corn, beans, and cucumbers, and they were growing finely. John Perciful claimed to be the proprietor of the place, and all that came got in by his consent and rented of him; and no other person at that day, that this affiant ever heard of, set up a claim to the springs, and the possession has continued in him and his widow up to this time, as this affiant believes. Mrs. Perciful, the widow of John Perciful, was at the springs when this affiant reached here in 1814. Ebenezer Fulsome lived on the Washita River. His clearing and cultivation and permanent residence in 1814 was at that place, and he told affiant that he claimed that place under the law of 1814, and he asked affiant that if he had it surveyed, it would be good evidence of his settlement-right, and entitle him to the whole quarter-section, and he had the survey made and a plat taken, which this affiant saw in 1822 or 1823.

This affiant always understood from him that he claimed the place on the Washita by virtue of his settlement and improvement, and no other.

And he was fearful without he had a survey and plat that he might not hold all of that. Affiant lived with him in the winter of 1814–'15, at his place on the Washita, and he had the survey made that winter. He had ten or fifteen acres cleared and under fence, and they looked as if they had been cultivated for several years. Fulsome was killed in 1817, and his widow and family have remained in possession of that place ever since. Fulsome had a small house near the springs, and on the 4th of July, 1814, when this affiant was at the house, there was no clearing and no appearance of cultivation. This affiant is certain that he saw not a hill or a stalk of any vegetable growing; and they left in August; and Fulsome told affiant that he built the house and moved up here in the summer for the benefit of the stock-range, and
280 to sell his butter and milk and beef at the springs; but certainly claimed no right nor ever disputed Perciful's.

WARREN DUNHAM.

Sworn to before me and subscribed in my presence by Warren Dunham, to me personally well known, at the Hot Springs, in Hot Spring County in the State of Arkansas, this 2d day of June, A. D. 1838.

DANIEL RINGO,

Chief-Justice of the Supreme Court of the State of Arkansas.

Additional testimony of Warren Dunham, July 2d, 1838.

Be it remembered that, on the 2d day of July, in the year of our Lord 1838, WARREN DUNHAM personally came before me, the undersigned, a justice of the peace within and for said county of Hot Spring, in the State aforesaid, and, being by me first duly sworn, deposeth and saith:

That the deposition made by him, the said Dunham, on the 2d day of June ultimo, before Daniel Ringo, chief justice of supreme court of the State of Arkansas, with regard to the pre-emption-right of the widow and son and only heirs of John Perciful, deceased, to the quarter section of land including the Hot Springs is true, and said Dunham further swears that the said springs are included in the southwest quarter of section thirty-three, in township two south of the base-line, in range nineteen west of the principal meridian.

This affiant further states that, in the year eighteen hundred and twenty-eight, John Perciful, deceased, leased the Hot Springs and improvements to one Ludovicus Beldan for the term of five years, who remained in the possession of said property for two years or thereabouts, and then sold the lease to one Asa Thompson. He, Thompson, remained in possession for one year or near that time, and then sold the lease for the remaining two years to Richard C. Hawkins, who delivered over the possession to Perciful at the expiration of the time. There was a garden cultivated by Perciful, about half of which is on the quarter-section before described, and was cultivated for many years in vegetables, various kinds, a corn-patch for roasting-ears, &c. The said garden was cultivated by Beldan in the year 1828 and 1829, and afterwards by Thompson and Hawkins. This deposition is annexed by wafers to the before mentioned deposition, made before Daniel Ringo, chief-justice, in presence of the subscribing justice of the peace, and in the presence of the clerk of the superior court for said county. Affiant also states that Beldan cultivated, in the years 1828 and 1829, a garden near the houses and which is entirely included in the quarter-section described. Affiant also states that he knows the principal facts set forth in the deposition of Sarah Perciful, in the premises aforesaid, to be substantially true.

WARREN DUNHAM.

Sworn to before me and subscribed in my presence by Warren Dunham, to me personally well known, at the Hot Springs, in Hot Springs County, in the State of Arkansas, this second day of July, A. D. 1838.

S. A. EMERSON, *J. P.*

I, S. A. Emerson, the subscribing justice of the peace for the county and State aforesaid, do certify that I have been acquainted with Warren Dunham, the subscribing witness to the foregoing deposition, for some years, and that the said Dunham his filled the office of county judge for some years past and bears an unblemished character for truth and honesty, and is entitled to full faith and credit on oath. Date above written.

S. A. EMERSON, *J. P.*

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of supreme court of the State of Arkansas, certify that the above and foregoing five pages of manuscript contain a full and true copy of the depositions of Warren Dunham, as the same are to be found upon page 101, book 2, of a transcript now on file in my office, purporting to be a transcript of the record and proceedings had in the Hot Spring County circuit court, in the case of John C. Hale, plff., agst. Wm. H. Gaines et al., defts., and by the said Wm. H. Gaines et al. appealed to our supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 20th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

Know all men by these , this declaration, that I, L. Belding, of the county of Hot Spring and Territory of Arkansas, do acknowledge and make known that I, the said Belding, did lease the buildings and improvements at the Hot Spring of John Perciful, and acknowledge his right to said improv'nts at the Hot Springs; and that I have now, before this date, leased said buildings and all the privileges (except three cabins, two of which are not mine) to Richard C. Hawkins, until the first day of January, eighteen hundred and thirty-three, and at which time I, the said Belding, agree and bind myself to deliver all and every part of the buildings and improvements at said Hot Springs that I have or ever had, in the same condition as said Hawkins is to deliver to me, unto John Percifull, if he demands the same; and that I have no pretentions to the improvements of said springs except under the claim of said John Percifull. Given under my hand this 2d April, 1831.

L. BELDING.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that Warren Dunham this day appeared in the county court in session at Hot Spring, and, being duly sworn for the purpose, on oath deposeth and sayeth that the annexed and foregoing instrument of writing is in the handwriting of L. Belding, whose name is subscribed thereto; and that said L. Belding did, within a short time after the date thereof, proffer to acknowledge the same for his act and deed for the purposes therein set forth; and that the said deponent was at that time an acting judge of the Hot Spring County. And further this deponent sayeth not.

his
WARREN + DUNHAM.
mark.

281 Sworn & subscribed to in open court this 5th day of January, A. D. 1842.

Attest: LAWSON RUNYAN, *Clk.*

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that H. A. Whittington and Cumberland Polk this day appeared in open court of the county of Hot Spring, and on their oath depose and say that the annexed and foregoing instrument of writing is, to the best of their knowledge and belief, in the handwriting of L. Belding, whose name appears upon and is subscribed thereto; that they have often seen him write; and further these deponents saith not.

H. A. WHITTINGTON.
C. POLK.

Sworn and subscribed to in open court this 5th day of January, 1842.
LAWSON RUNYAN, *Clk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyan, clerk of circuit court and ex-officio recorder within and for the county of Hot Spring and State aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed in my office on the 10th day of January, eighteen hundred and forty-two, and the same is recorded in the record-book A of deeds & mortgages, 285, 286, and 287.

In testimony whereof I have hereunto set my hand as such clerk and affixed the seal of my office, at Hot Spring, this 10th day of January, A. D. eighteen hundred and forty-two.

[L. S.] LAWSON RUNYAN,
Clk. & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, John Jester, clerk of the circuit court in and for the county of Hot Springs, hereby certify that the above and foregoing three pages contain a full and complete transcript of the contract and certificates (verbatim et literatim) as they appear on file in my office.

In testimony whereof I have hereto set my hand and affixed my official seal this 12th day of July, A. D. 1850.

JOHN JESTER,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing four pages of manuscript contain a full and true copy of an acknowledgment of lease and non-claim signed by L. Belding, together with the affidavits and certificates thereto attached, to be found on page 131 et seq. of part 3d of transcript of the record and proceedings had in the case of William H. Gaines et. al., appellants, against John C. Hale and Henry M. Rector, appellees, on appeal from the Hot Spring circuit court, now on file in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 20th March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

Depositions read on the part of the complainant.

Depositions of LAWSON RUNYAN, taken on the 16th & 17th of April, 1866, who deposeth and says that—

I reside in Hot Spring County, near the Hot Springs. I have lived in Hot Spring County ever since the year 1834. I was clerk of the circuit court and ex-officio clerk of the county court, and recorder, on the 3d day of January, 1842, and was, until after the 20th of January, 1842, acting as such clerk. The book shown me is record-book "A" of deeds and mortgages in Hot Spring County. I find, on examination of said book, at pages 285, 286, and 287, that I, as such clerk and recorder, recorded the instrument, affidavit, and certificate appearing on said pages. In recording papers, it was my habit to do so carefully, and to compare them with the entry in the record. From my habit of recording, I am prepared to say that said pages contain a correct copy of the paper produced and shown to me for record. I do not remember who brought that instrument to me for record; that is, not with certainty; but my impression and best recollection is that it was brought to me for record by Warren Dunham, one of the witnesses by whom the instrument purports to have been proven up, and who was living with Mrs. Perciful, who was the widow of John Perciful, and was attending to business for her. Warren Dunham died in or about the year 1846. Cumberland Polk went to Texas and died there in or about the year 1856, according to report not doubted. I recollect of Warren Dunham, Cumberland Polk, and A. H. Whittington appearing before the county court, at the term of the court, as stated in said record-book, and proving the handwriting of said Belding to said instrument, as shown in their affidavits. The paging of said record-book A of deed', &c., has been changed from 265, &c., to 285, &c., to make the paging regular. I was not acquainted with the handwriting of L. Belding. He died before I came to the country. The paper now shown me, and hereto annexed, marked "Exhibit A," to this deposition, is a correct copy, compared by me with the record of said instrument appearing on said record-book A, at pages 285, &c., otherwise pages 265, &c. Said paper, marked "A," is a correct copy of the paper before referred to as having been produced to me for record. Warren Dunham could write. He was complaining on that occasion of having rheumatism, but usually wrote his name. I never knew him to make his mark except on that occasion. The quarter-section on which the hot springs are situated was in Hot Spring County at the time said instrument purports to have been proven up and recorded.

Cross-examined by Belding's heirs:

I have had a particular knowledge of the different claims to the hot springs, and interested in knowing all about them, and at one time owned an interest in one of the pre-emption claims to the springs, known as the Davis claim, which I afterwards disposed of. I never saw said instrument before the occasion of its being produced, as before stated by me, to be proven up and placed on record, and I have never seen it since.

Warren Dunham was a good scribe and penman. I knew him
282 in Hot Spring County, part of the time at the Hot Springs, from 1834 until his death, say in 1846. He lived with Mrs. Percifull while she staid at the springs, and attended to business for her. He lived in the family as one of the family. I do not remember of his having any other means of obtaining a livelihood except attending to her business. He was concerned in building a saw-mill near the springs in

1835, which ran for a year or two and then stopped. He also owned some wild land which he had bought for taxes, and which, so far I remember, was unproductive. After Mrs. Percifull sold out her possession at the springs to John C. Hale and Milus H. Woods, which was in the latter part of 1840, or early part of 1841, they took possession and she moved out to her farm, at the mouth of the Gulpha; and my impression is, that said Dunham went there and lived most of the time with her. Said Dunham was reported to be a millwright by occupation, but I never knew him to be engaged in any such work, except for a year or so in 1835, as before stated. Mrs. Percifull kept boarders at the springs, and required the assistance of an active business man in her business. She kept boarders at the springs for two or three years.

Re-examined for complainant, John C. Hale:

Hiram A. Whittington, Cumberland Polk, and Warren Dunham were men of good reputation for veracity. I know nothing to the contrary. I was well acquainted with their general reputation.

NOTE.—The defendants, Belding's heirs, objected to the question which elicited the foregoing answer, and also to the answer.

LAWSON RUNYAN.

Deposition of HIRAM A. WHITTINGTON, taken on the 17th day of April, 1866, who deposeth that—

I reside in Hot Spring County, near the hot springs, and have resided in said county and near the springs since the year 1832. I know Ludovicus Belding very well. I became acquainted with him several years before I moved out near the hot springs; saw him frequently in Little Rock, where I resided for some years before I moved out. I knew the handwriting of Ludovicus Belding. I do not remember of having seen him write—may have seen him write. I once received a note from him during his life-time. I have often seen his handwriting, and know his handwriting as well as I know that of any one. When he came to Little Rock, he usually came to the office of William E. Woodruff, where I staid. I have seen his handwriting more than once, and more than twice, while I was in business at the springs. I knew his handwriting as well as I did any one's; though after so long a time I cannot remember how often nor on what occasions I saw it.

I commenced doing business as a merchant, at the Hot Springs, in January or February, 1833, and continued in business at the springs until after the death of Belding, who died about the fall of 1833. I was with him when he died. I have just examined the instrument, affidavit, and certificate attached, recorded on pages 285, 286, 287, of record-book A of deeds and mortgages of said county of Hot Springs, now produced and shown to me. I remember appearing before some court of said county, about the 5th of January, 1842, the time stated in said record, and making the affidavit to which my name appears on said record, but cannot now remember distinctly the precise time, nor what court—it might have been the circuit court, or it might have been the county court; I cannot now remember distinctly which. I cannot remember who, or whether any one, appeared with me before said court at that time. The original instrument, of which that upon the record above referred to purports to be a copy, was shown to me at the time I appeared before said court. I remember the instrument—the whole of the said original instrument then shown to me—body and signature was in the handwriting of Ludovicus Belding—that is, to the best of my belief. I believed then and believe now that he wrote the instrument.

I had frequently heard of the instrument before I went before the court to prove the handwriting of Belding. I do not remember that I had seen the instrument before that time. I may or may not.

(NOTE.—So much of the question as drew from the witness a statement as to what he had heard about the existence of the instrument, before he went before the court to prove the handwriting of Belding, and so much of the response of the witness as relates to what he had heard, were objected to by the counsel of Belding's heirs.)

I have seen the handwriting of Warren Dunham often. I knew it well at the time I appeared before the court to prove the handwriting of Belding to the instrument. If the instrument had been in the handwriting of Dunham, I should have noticed it. I can state that it was not in the handwriting of Dunham. Belding wrote a smoothe, large hand, like a clerk. My impression is, that the affidavit I made and signed before the court, referred to, was written upon another piece of paper, and at the time attached to the instrument.

I know the general reputation of Cumberland Polk and Warren Dunham for honesty, integrity, and veracity, and it was good.

(NOTE.—To the question which called forth this statement, as to the reputations of Polk and Dunham, and the answer, the counsel of Belding's heirs objected.)

H. A. WHITTINGTON.

Exhibit "A" referred to in Runyan's deposition.

Know all men by this declaration that I, L. Belding, of the county of Hot Springs, and Territory of Arkansas, do acknowledge and make known that I, the said Belding, did lease the buildings and improvements at the Hot Springs of John Percifull, and acknowledge his right to said improvements; and that I have now, before this date, leased said buildings and all the privileges (except three cabins, two of which are not mine) to Richard C. Hawkins, until the first day of January, eighteen hundred and thirty-three, then, and at which time I, the said Belding, agree and bind myself to deliver all and every part of the buildings and improvements at said Hot Springs that I have or ever had, in the same condition as said Hawkins is to deliver to me, unto John Percifull, if he demands the same; and that I have no pretentions to the improvements of said springs except under the claim said John Percifull.

Given under my hand this 2d April, 1831.

L. BELDING.

283 STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that Warren Dunham this day appeared in the county court in session at Hot Spring', and, being duly sworn for the purpose, on oath deposeth and saith that the annexed and foregoing instrument of writing is in the handwriting of L. Belding, whose name is subscribed thereto, and the said L. Belding did, within a short time after the date thereof, proffer to acknowledge the same as for his act and deed for the purposes therein set forth, and that he, the deponent, was at that time the acting judge of Hot Spring County.

And further this deponent saith not.

his
WARREN + DUNHAM.
mark.

Sworn and subscribed to in open court this 5th day of January, A. D. 1842.

Attest:

LAWSON RUNYAN, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that H. A. Whittington and Cumberland Polk this day appeared in open court of the county of Hot Spring, and on their oaths depose and say that the annexed and foregoing instrument of writing is, to the best of their knowledge and belief, in the handwriting of L. Belding, whose name appears upon and is subscribed thereto; that they have often seen him write.

And further these deponents say not.

H. A. WHITTINGTON.
C. POLK.

Sworn and subscribed to in open court this 5th day of January, 1842

Attest:

LAWSON RUNYAN, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyon, clerk of the circuit court and ex officio recorder within and for the county of Hot Spring, and State aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 10th day of January, eighteen hundred and forty-two, and the same is now duly recorded in record-book A of deed' and mortgages, pages 265, 266, 267.

In testimony whereof I have hereunto set my hand as such clerk and affixed the seal of my office, at Hot Spring', this tenth day of January, A. D. eighteen hundred and forty-two.

[L. S.] LAWSON RUNYAN,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring:

I, Hugh McCallum, clerk of the circuit court and ex-officio recorder in and for the county and State aforesaid, do hereby certify that the foregoing three pages is a full, true, and complete copy from the records in my office, as the same is there on record.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office, at Rockport, this the 3d day of April, A. D. 1866.

[L. S.] HUGH McCALLUM, *Clerk.*

This is Exhibit A, referred to in the deposition of Lawson Runyan, *Lawson Runyan.*

EDWIN RICE, *J. P.*

STATE OF ARKANSAS, *set:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the depositions of Lawson Runyan and Hiram A. Whittington, together with the exhibits and certificates thereto attached, as the same are now to be found on file in my office, page 24 et seq., part 5, the same being the transcript of the record in the case of W. H. Gaines et al., appellants,

agst. John C. Hale and Henry M. Rector, appellees, on appeal from the circuit court of Hot Springs to said supreme court.

In testimony whereof I have hereunto set my hand and affixed the seal of said supreme court, at Little Rock, this 3d day of April, A. D. 1873.

[SEAL.] N. W. COX,
Clerk Sup. Ct. of Ark.

Depositions read on the part of the complainant.

Depositions of ABAGAIL SABIN, taken on the 11th day of December, A. D. 1860, who deposes and says:

That I made the acquaintance of John C. Hale in the year 1835. He moved to the Hot Springs in January, 1841, as a permanent resident, and took the possession of the improvements of Sarah Percifull, widow of John Percifull, at Hot Springs, and has resided at said springs on a tract of land known and designated as the southwest quarter of section thirty-three, township two south, range nineteen west of the fifth principal meridian, ever since, and he cultivated a portion of said tract in 1841, and each successive year since. I believe I never was acquainted with Mr. Belding, and know nothing about the contract of him and Mr. Percifull. I have heard Mrs. Percifull and David Percifull say that they had sold their pre-emption right to John C. Hale and on' Miles H. Woods.

A. SABIN.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the deposition of Abagail Sabin, as the same is now to be found in a transcript now on file in my office, page 12 et seq., part 5, the same being the transcript of the record in the case of W. H. Gaines et al., appel-
284 lants, agst. John C. Hale and Henry M. Rector, appellees, on appeal from the circuit court of Hot Springs to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, this 3d day of April, 1873.

[SEAL.] N. W. COX,
Clk. Sup. Ct. of Ark.

Deposition of CREED TAYLOR, taken on the 27th day of July, 1866, (being continued over from the 26th,) who deposeth that:

Interrogatory 1st. Are you acquainted with the parties to 'his suit?

Interrogatory 2d. Were you acquainted with Ludovicus Belding in his life-time? If so, please state whether you ever heard him say by what right he held possession of the hot springs in the year 1829 and 1830, and state all and everything he said about that right and possession of the hot springs, and state all you know about the matter in controversy that would be of any advantage to either of the parties.

In answer to interrogatory the 1st: That I was acquainted with one L. Belding, and am now acquainted with John C. Hale and William H. Gaines.

In answer to interrogatory 2d says: That he was introduced to L. Belding at Little Rock, some time between the years 1825 and 1830, and that he travelled down the Arkansas River to Pine Bluff on a steamer; that during the passage Mr. Belding told me he had leased the hot

springs of John Percifull, and showed me the lease for the same. At the request of the parties, I state that I had known the said Percifull for several years before. I knew that he lived at Hot Springs previous to his leasing to Belding; that I came to Arkansas in 1817, and know that Percifull occupied the springs from five to eight years previous to the lease.

And further this deponent saith not.

CREED TAYLOR.

STATE OF ARKANSAS, *set:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the deposition of Creed Taylor, as the same is now to be found in a transcript now on file in my office, page 22, part 5, the same being the transcript of the record in the case of W. H. Gaines et al., appellants, agst. John C. Hale and Henry M. Rector, appellees, on appeal from the circuit court of Hot Springs to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, this 28th day of March, 1873.

[SEAL.] N. W. COX, *Clerk.*

Mrs. L. BELDING:

MADAM: You are hereby notified that I shall proceed to take the depositions of witnesses in favor of a pre-emption right to the Hot Springs of Arkansas, under the existing laws, in the favor of the heirs and legal representatives of John Percifull & Sarah Percifull, on the 22d day of June inst., at the tavern-house of John C. Hale, at said Hot Springs, where you are also respectfully requested to be present, if convenient, and you think proper on your part.

June 20th, 1850.

JOHN C. HALE.

STATE OF ARKANSAS,
Hot Sprinys County:

Be it remembered that SAMUEL SORTER personally appeared before me, the undersigned, acting and duly commissioned justice in and for the county of Hot Springs and State of Arkansas aforesaid, on this 22d day of June, A. D. 1850, and, after first being duly sworn as a witness on the behalf of the legal representatives, John and Mary Percifull, deceased, deposes and as follows, to wit:

That the said deponent heard Ludovicus Belding, in his life-time, stated that he, said Belding, had rented or leased the hot spring of John Percifull, and that said Belding made said statement in the year 1829, and that the said Belding was then occupying said hot spring under said Percifull, as lessee; that the ground cultivated by said Belding during the year 1829 is the place lying on the east side of the Hot Spring Creek, and described in the depositions of James Neal, and known as the garden and enclosures of said John Percifull, which deposition shows fully the cultivation by said Percifull many years previous to the year 1829. And deponent further states that he was living here at said Hot Springs during the year 1830, and that he does not know or believe that said Belding did occupy any houses by personal residence except those embraced in the lease from said Percifull. That said Belding, one Moone, and himself, in the year 1829, did purchase a house at said Hot Springs, in the southwest quarter of sectiou thirty-

three, (33,) township 2 south, of range nineteen (19) west, and that said Belding became the purchaser of said house of *the* Moone and of said deponent; and, as deponent understood said Belding, he, said Belding, purchased the same for said Percifull, and that said Belding, with his family, never did occupy said house as a private residence, nor did he, Belding, ever occupy the house said to have been Mrs. Bassett's by personal residence with his family; that all the cultivation done by said Belding at said hot springs was in the year 1829, as far as deponent has any knowledge of.

SAML. SORTER.

Sworn to and subscribed before me, an acting justice of the peace in and for Hot Springs County, this the 22d day of June, A. D. 1850.

LAWSON RUNYAN, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Lawson Runyan, a justice of the peace in and for the county of Hot Springs, do hereby certify that Samuel Sorter & William Davis, whose names are subscribed to the annexed and foregoing depositions, are the same persons whose testimony was taken in favor of a pre-emption claim, under the act of 1829 & '30, by Mrs. Lydia Belding, in right of her husband, Ludovicus Belding, deceased, taken on the 7th day of March, 1859; that I am personally well acquainted with
285 James Neal, Samuel Sorter, and William Davis, whose names appear upon and are subscribed to the annexed and foregoing depositions; that their testimony is entitled to full credit; that their depositions were reduced to writing in my presence, on the day and *and* at the place named in the notice, between the hours of ten o'clock a. m. and three o'clock p. m. of said day.

Given under my hand this 22d day of June, A. D. 1850.

LAWSON RUNYAN, *J. P.*

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the deposition and accompanying certificate of Samuel Sorter, as the same is found on page 81, part 2d, of a transcript now on file in my office, the same being a transcript of the record and proceedings of the Hot Spring circuit court, in the case of Wm. H. Gaines et al., appellants, agst. John C. Hale and Henry M. Rector, appellees, on appeal from said circuit court to the supreme court aforesaid.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, this 27th day of March, 1873.

[SEAL.] N. W. COX, *Clerk.*

And also at the same time and place appeared JONATHAN IRONS, and, first being duly sworn, testifies as follows:

I was acquainted with Warren Denham in his life-time; also with Thos. Holman and Mrs. Sarah Percifull.

Were you acquainted with the character of Warren Denham, among his neighbors, for truth and veracity?

I was.

From his character among his neighbors would you believe him on oath?

I should.

Were you acquainted with Thos. Holman's character for truth and veracity among his neighbors?

I was. He was said to be a truthful man.

Would you believe him on oath?

Yes.

Were you acquainted with the character of Mrs. Perciful, for truth and veracity, among her neighbors?

I was.

From that acquaintance would you believe her under oath?

Yes, I would.

Were you acquainted with the character of Silas Dod for truth and veracity among his neighbors?

I was, slightly.

From that acquaintance would you believe him under oath?

Yes, I would.

How long have you known the above-mentioned persons previous to their deaths?

Ans. I cannot tell when they died, but became acquainted with them about the year 1825 or 1826.

And further deponent says not.

(Signed) JONATHAN IRONS.

Sworn to and subscribed before me the 20th Jan'y, 1851.

B. F. HEMPSTEAD, *Recr.*

STATE OF ARKANSAS, *set:*

I, N. W. Cox, clerk of the supreme court, certify the above and foregoing to be a full and true copy of the deposition of Jonathan Irons, as the same is to be found in a transcript now on file in my office, on page 158, pt. 2, the same being the transcript in the case of Wm. H. Gaines et al., appellants, agst. John C. Hale and Henry M. Rector, appellees, on appeal from the circuit court of Hot Springs County to the supreme of the State of Arkansas.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, this 27th day of March, A. D. 1873.

N. W. COX, *Clerk.*

STATE OF ARKANSAS,

County of Hempstead:

This day BERNARD F. HEMPSTEAD, of Hempstead County, Arkansas, to me personally well known, came before me, a duly qualified justice of the peace within and for the said county of Hempstead, in said State, and, being by me duly sworn, made and subscribed the following affidavit, to wit:

That I was receiver of public moneys at the land-office in the district of lands subject to sale at Washington, Arkansas, in 1851, and that I presided as one of the officers of said office upon the investigation of pre-emption claims between the heirs of Percifull and the heirs of Belding and Henry M. Rector, who represents those interested in a New Madrid claim or location.

The first claim investigated was that of Percifull's heirs. After reading the documentary proof, and hearing the evidence of the witnesses for said claim who were present, a motion was made for time to bring before us Adam Stroud and one Cox—I believe Jester Cox. I was not

acquainted with Cox, but knew Stroud, a credible citizen of Clark County.

We then demanded if the clmts. had no further testimony present. The answer was: There was no further testimony present. We thereupon closed the case and refused further time to bring in Stroud and Cox as witnesses, and thereupon proceeded to investigate the claim of Belding's heirs. After some days spent therein, and before the decision of the land-officers upon any of said claims, Percifull's heirs produced the said Stroud and Cox before us, and demanded that they should be sworn, and their testimony considered by us in the adjudication of said Percifull's pre-emption, which was refused upon the ground, solely, that the claim of Percifull's heirs had been closed previously, and not upon the ground that said witnesses, or either of them, were disqualified for incompetency or bad character. For the character of Stroud, I, as receiver of public moneys, know personally, and know it to be good. As to Cox, I know nothing about him. And thereupon George Conway, as attorney for Percifull's heirs, drew out and presented a protest containing these facts, among other things, for refusing to receive the testimony of Cox and Stroud, which protest, as I now believe, was endorsed, filed by me as receiver of public moneys, and should so filed
286 among the papers of the case, and where it should properly be found; but I, as late receiver, do distinctly recollect that said protest was made when the testimony of Stroud and Cox was excluded, and that under the regulations of the Department said paper is now, or should be, in the hands or possession of the register of the land at said land-district, as one of the papers properly belonging or pertaining to the establishing the claim to the right of pre-emption to the lands in controversy.

The lands in said controversy in question are the lands generally known as the Hot Spring tract in the State of Arkansas.

B. F. HEMPSTEAD,
Late Receiver.

Sworn to and subscribed before me this 7th Sept., 1855.

R. L. PHILLIPS,
J. P., Hempstead County, Ark.

STATE OF ARKANSAS,
County of Hempstead, set:

I, Simon T. Sanders, clerk of the circuit court and ex-officio clerk of the county court of Hempstead County, in the State of Arkansas, which said courts are courts of record, do hereby certify that Robert L. Phillips, esquire, whose signature appears to the foregoing certificate, is now, and was at the time of signing the same, an acting justice of the peace for said county of Hempstead, duly commissioned and sworn.

In testimony whereof I have hereto set my hand, as such clerk, and affixed the seal of said court, at my office, in the town of Washington, the 8th day of September, A. D. 1855.

[L. S.] S. T. SANDERS, *Clerk.*

STATE OF ARKANSAS, *set:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas certify the above and foregoing to be a full and true copy of the deposition of B. F. Hempstead, as the same is now to be found in a transcript now on file in my office, the same being a transcript of the record in the case of Wm. H. Gaines et al., appellants, v. John C. Hale & Henry

M. Rector, appellees, on appeal from the Hot Springs circuit court to the supreme court of said State.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 27th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

The deposition of B. F. HEMPSTEAD, taken on the 8th day of January, A. D. 1861, who deposeth and saith:

I am acquainted with John C. Hale, complainant, and Henry M. Rector, William H. Gaines, defendants, and may have seen other parties defendants, but do not know that I would now know them. I was first appointed receiver of public monies for the district of lands subject to sale at Washington, Arkansas, on the 8th day of May, A. D. 1849, and qualified as such according to law. I was, afterwards, on the 2d day of September, re-appointed to said office by Millard Fillmore, then President of the United States, for and during the term of four years from the 28th day of August, A. D. 1850, and again qualified as such receiver, and continued to act as such until some time after the 4th of March, 1853, I resigned the office, to take effect on the 4th day of March, 1853, but it was some months afterwards before my successor was appointed and qualified.

During the time I was so acting as receiver, there was referred to myself and William H. Etter, the register of the Washington land-office, from the Land-Office Department at Washington City, the questions arising out of the conflicting claims of a right to pre-emption to what is known as the Hot Springs of Arkansas. The parties claiming were the heirs of one Percifull, deceased, on the one part, and the heirs of one Ludovicus Belding, deceased, on the other. At the time fixed for the investigation, all parties in interest appeared in person or by attorney, and after a laborious investigation of ten or twelve days, the matter was submitted to the register and receiver for their decision. The register and myself differed, he deciding in favor of Belding's heirs, and I in favor of Percifull's. As we differed, no entry could be made by either. Whereupon we so certified to the Department, I giving my reasons in full for the conclusion I had arrived at, and the register, I presume, doing the same thing. My decision in that case was in all things adverse to the *to a* pre-emption in Belding, deceased, or his heirs, and in all things in favor of the rights of Percifull. As a matter of course I did not think the proof made by Belding's heirs was sufficient to entitle them to an entry of the land in question, and would not have allowed them to make the desired entry had I not been specially instructed to do so from the Department.

The register received the same instructions in regard to allowing the entry to be made that I did. My present impression is (tho' from the lapse of time I cannot be positive) that when the heirs of Belding applied to enter the land under the instructions of the Department of the Interior, *that* they demanded of me a certificate of entry in the ordinary form, without any qualifications; that I declined to issue such, and that the only certificate I would or in fact could issue was the one I did, specifying why I did so, and that it was done under instructions from superior authority; and, if my recollection serves me right, all this will be found in the certificate which I issued.

I am asked if I consider Ludovicus Belding an actual settler on the public lands under the provisions of any pre-emption law, and was the proof made within the prescribed times or life of any such acts. The question is a general one in its nature, and I cannot see what bearing

it can have. I can only say that, from the testimony which was then before me, I did not consider Ludovicus Belding as an actual settler on the public lands within the meaning or purview of the act under which the pre-emption right was claimed. My recollection of the evidence is substantially this: That Belding found Percifull in the peaceable possession of springs and the houses on the land in question, and that Belding obtained possession and held the same under a written lease from Percifull. In this I may be mistaken, but think not. At all events, the testimony taken at the time and now on file in proper Department will correct any error in memory I may make. I am further asked if I forwarded the protest of Hale, who represented the Percifull heirs, against the action of the land-officers at Washington, Arkansas, in excluding the testimony of certain witnesses, to the Department at Washington City. In answer I would say again that, so far as my recollection now serves me, *that* the register and myself decided to take up each case separately. Which was first opened I cannot now say, but I distinctly remember that after the case of the Percifull claim had
287 been closed, by examining all the witnesses produced in support of and against it, *that* afterwards John B. Hale, on the part and behalf of Percifull's heirs, offered some two or three witnesses, and among which number was, I think, one Adam Stroud, of Clark County. Their testimony was not taken, from the fact that the case had been closed, and the register and myself did not think ourselves authorized to re-open it, more especially as the other parties in interest objected to it. My impression is that Hale, at the time, objected to the decision of the register and receiver; in fact I am positive he did; but whether him or the counsel of the heirs of Percifull drew up any formal protest or bill of exceptions, I cannot now say. If any such thing was done, the register and not myself was the proper custodian or keeper of any such, as well as all other papers pertaining to the case. I do not think that I forwarded to the Department at Washington City any such protest as the one referred to. All that I done in the premises was, after the register and myself had disagreed, *was* to make out a statement of the testimony, and upon it my reasons for holding that the heirs of Percifull were entitled to the pre-emption right as against the heirs of Belding. It was the register's duty to forward all the papers connected with the cases before us. Whether he done so or not I am unable to say, but I presume he did.

I have no interest directly or indirectly in the event of this suit. And further deponent sayeth not.

B. F. HEMPSTEAD.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the above and foregoing to be a full and true copy of the deposition of B. F. Hempstead, as the same is to be found upon page 17, part 5, of a transcript now on file in my office, the same being the transcript of the record and proceedings had in the Hot Springs circuit court, in which Wm. H. Gaines et al. are appellants, and John C. Hale & Henry M. Rector appellees, on appeal from said circuit court to said supreme court.

Witness my hand and the seal of said supreme court, at Little Rock, this 28th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

"D."

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that SARAH PERCIFULL, the widow of John Percifull, deceased, in right of herself and John Percifull's heirs, this day personally appeared before me, the undersigned, an acting justice of the peace within and for the county aforesaid, and on her oath deposes and says:

That she is about fifty years of age, the widow of said John Percifull, deceased, the head of a family, consisting of herself, one child, and one slave. For these thirty years she has been an actual settler on the public land of the United States, on a tract known and designated as the southwest quarter of section 33, in township number 2 south, of range 19 west of the fifth principal meridian, in the district of lands subject to sale at Washington, Arkansas; that she removed from Mississippi during the Creek Indian war, and arrived at the Hot Springs early in the spring of 1814, at the house of the said John Percifull, where she remained and cultivated vegetables in said spring and summer of the year A. D. 1814, and that the said Percifull also cultivated a garden in said spring and summer of 1814, at the Hot Springs, now embraced by said quarter-section of land. He told her that he had cultivated said garden in the years A. D. 1812–'13, (eighteen hundred and twelve and thirteen,) and that he, the said Percifull, had settled in said place at Hot Springs, A. D. 1807, and the size of the peach-trees he had enclosed left her without grounds to doubt his, said Percifull's, statements. She further deposes and says that, afterwards, in the month of January, A. D. 1815, she was married to the said John Percifull, and that she and her said husband, John Percifull, has held, by personal residence, said quarter-section of land, by themselves and tenants, up to the time of his death, which took place A. D. 1836, and since by herself and legal representatives. And further deposes and says that neither she nor her husband, John Percifull, has ever claimed the right of pre-emption to any other part of the public domain, and he died without owning or possessing one acre of his country's soil, and she still remains equally destitute of any part thereof. Furthermore she saith not.

her
SARAH + PERCIFULL.
mark.

Sworn to and subscribed to before me, after reading aloud the foregoing deposition, this 12th of October, 1843.

ISAAC MILLER, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that THOMAS HOLMAN personally appeared before me, an acting justice of the, peace, and deposes and says, on oath, that he has been acquainted with John Perciful in the foregoing deposition for thirty-three years, and also with Sarah Perciful, the widow of said John Perciful, for thirty years, or thereabouts. And further deposes and says that the said John Perciful did build the first house at Hot Springs in the years 1811 or 1812. And that the said John Perciful did cultivate on said quarter-section (thirty-third section) set forth in the foregoing deposition, in the year 1812 and 1813, and said house was built previous to those years; and that he was in possession by personal residence of himself and family and tenants, of said springs, up to his

death; and that all the matters and things set forth in her said foregoing deposition relative to the right of pre-emption are true in substance and in fact. Furthermore he says not.

THOMAS HOLMAN.

Sworn to and subscribed before me on the 12th of October, 1843.

ISAAC MILLER, *J. P.*

I, Isaac Miller, do certify that the foregoing depositions are entitled to full weight and credit, as the persons are of undoubted veracity.

ISAAC MILLER.

288 I this day examined the foregoing depositions given by Sarah Perciful and Thomas Holman, with both of whom I have been acquainted for twenty years, and know them to be of undoubted character; and further know that the said Sarah Perciful did reside at the Hot Springs and where she was keeping a boarding-house in the year 1820 at said Hot Springs, on the quarter-section set forth in said depositions. This the 27th day of October, 1843.

PHILLIP S. PHYSICK.

STATE OF ARKANSAS, *set:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas certify the above and foregoing to be a full and true copy of the depositions of Sarah Percifull and Thomas Holman, as the same are to be found upon page 127 et seq., book 2, of a transcript now on file in my office, the same being the transcript of the record and proceedings had in the circuit court of Hot Springs County, in the case of Wm. H. Gaines et al., appellants, agst. John C. Hale and Henry M. Rector, appellees, on appeal from said circuit court to said supreme court.

In testimony whereof I have hereto set my hand and affixed the seal of said supreme court, at Little Rock, the 27th day of March, A. D. 1873.

[SEAL.] N. W. COX, *Clerk.*

OFFICE OF SECRETARY OF STATE, ARKS.:

I hereby certify that N. W. Cox, whose genuine signature is signed to the above writing, was, at the time of signing the same, the clerk of the supreme court of Arkansas, duly commissioned & qualified.

Witness my hand & seal of office, at Little Rock, this 4th day of April, A. D. 1873.

[SEAL.] J. M. JOHNSON,
Secretary of State,
By FRANK STRONG,
Deputy.

(Indorsed:) 6203. John C. Hale vs. The United States. Certified copy of testimony in the case of Wm. H. Gaines et al. against Hale & Rector, in the supreme court of Arkansas. Filed by clmt's. counsel April 23, 1873. J. R.

Exemplifications of the record and files of the General Land-Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
December 12, 1874.

I, S. S. Burdett, Commissioner of the General Land-Office, do hereby

certify that the annexed are true and literal exemplifications of the records and files in this Office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, at the city of Washington, in the day and year above written.

[L. S.]

S. S. BURDETT,
Commissioner of General Land-Office.

GENERAL LAND-OFFICE,
January 26th, 1859.

F. P. STANTON, Esq., *Present:*

SIR: Your letter of 12th inst., desiring to be furnished with a statement of the number of the pre-emption claims under the 3d section of the act of 1st March, 1843, entitled "An act to perfect the titles to lands south of the Arkansas River," &c., has been received, and in reply I have to state that with the exception of the Hot Springs case, this Office is not aware that any claims by pre-emption have been made under the above-mentioned act.

Very respectfully,

THOS. A. HENDRICKS,
Commissioner.

WASHINGTON CITY, *Feb. 14th*, 1848.

Hon. R. J. WALKER,
Sec. of Treasury:

SIR: By the act of 1843, March 1st, the New Madrid claims, and pre-emption claims of 1814, south of the Arkansas River, were placed upon the same footing, and relieved from the difficulty relating to the non-extinguishment of Indian title over the lands of that region. All that I can state as to the intention that governed at the time the act passed I have derived from the late Senator Sevier. During the last session I had occasion to examine this mattter, and Colonol Sevier repeatedly told me that the act referred to was expressly intended to remove, and, on any just interpretation, did remove, all obstacle arising from Indian title, and had direct reference to the claims laid on the Hot Springs in Arkansas. Of the truth of his statement I presume none would doubt. I have no doubt of it myself.

I have the honor to be, your obt. s'v't,

R. W. JOHNSON.

289 EXTRACT.—*A description list of petitions filed in the No. 1 land-court of Arkansas, and abstract of papers for confirmation.*

	No. of arpens.	When filed.	Description and abstract mems.	
James Ball ass'ee of Filhoil...	3,528	1825	1, answer of dist. atto.; 2, dep's of Backman; 3, replicate of Ball; 4, dep's in 1826; 5, dep's in 1824; 6, bond for costs; 7, set of dep's for 1826; 8, rule and dep's; 9, Spa. v. John Perciful and J. Paxton; 10, notice of Paxton; 11, dep's of Jacob Backman; 12th, the dep's of James McLaughlin.	The petition and original Spanish grant are missing from the files in the papers of this suit.

Mr. Albert Pike, for Henry M. Rector, here offers, under general stipulation as to evidence, (see page 196 of this record,) from the record in the case of Wm. H. Gaines et al. vs. John C. Hale and Henry M. Rector, now pending in the Supreme Court of the United States, the following deed of John Percifull to Joseph Paxton.

(See Supreme C. R. in said case, printed page 158.)

RECORDER'S OFFICE,
CLARK COUNTY, ARKANSAS, *Aug.* 27, 1852.

This deed and indenture, made and entered into this fourth day of October, one thousand eight hundred and twenty-four, by and between John Percifull, of the one part, and Joseph Paxton, of the other part, both of the Territory of Arkansas, witnesseth:

That the said Percifull has this day bargained, sold, and conveyed, and by these presents do bargain, sell, and convey unto the said Joseph Paxton, all his right, title, claim, and interest of, in, and unto
290 the Warm Springs, lying near the Ouachita River, in the county of Clark, in the Territory of Arkansas, together with all his right of pre-emption, and every advantage that said Paxton can obtain by any claim, which conveyance said Percifull makes to said Paxton, his heirs and assigns, forever, for and in consideration of one thousand dollars, to him, the said Percifull, paid, the receipt of which is hereby acknowledged. To have and to hold said claim, together with all the privileges and appurtenances thereunto belonging, the said Percifull forever warrants and defends to said Paxton, his heirs, and legal representatives, forever, and for which purposes binds himself, his heirs, and representatives firmly by these presents, to defend against the claim or claims of all persons claiming of, by, or through the said Percifull, and all other claims except those of the United States and other individual claims.

291 In testimony whereof I have hereunto set my hand and seal this 4th day of October, 1824.

(Signed) JOHN PERCIFULL. [SEAL.]

Signed, sealed, and delivered in the presence of witnesses.

(Signed) ALLEN M. OAKLEY.
JAMES S. CRAIG.

TERRITORY OF ARKANSAS,
County of Clark, sct:

I hereby certify that Allen M. Oakley, one of the subscribing witnesses to the foregoing deed of conveyance or instrument of writing, this day personally appeared before me, and on oath that he saw John Percifull sign, seal, and acknowledge the same to be *to be* his act and deed, hand and seal for the uses and purposes therein mentioned.

As witness whereof I have hereunto set my hand this 7th day of April, 1827.

(Signed) DAVID RINGO,
Justice of the Peace, Caddo Township, Clark County, A. T.

292 TERRITORY OF ARKANSAS,
County of Clark, sct:

I, Daniel Ringo, clerk of the Clark circuit court, and ex-officio recorder for said county, do hereby certify that the foregoing deed of bargain and sale from John Percifull to Joseph Paxton, together with

the certificate of proof thereof thereon endorsed, was this day produced to me in my office and ordered to be recorded, which is duly done.

In testimony whereof I have hereunto set my hand and affixed my private seal (no seal of office being here produced) this the 7th day of April, 1827.

[SEAL.] DANIEL RINGO,
Clerk and Ex-officio Recorder.

STATE OF ARKANSAS,
County of Clark, ss:

I, Isaac W. Smith, clerk of the circuit and ex-officio re-
293 corder in and for the county of Clark and State aforesaid, do hereby certify that the preceeding two pages contain a full, true, complete, and perfect copy and transcript of the record of the deed of conveyance or instrument of writing from John Percifull to Joseph Paxton, together with the certificate of proof of acknowledgment and of record as the same now remains of record in my office fully and at large appears.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in Arkadelphia this 27th day August, A. D. 1852.

[L. S.] J. W. SMITH, *Clerk.*

(Indorsement:) "Percifull to Paxton. Copy of deed. Filed August 20th, A. D. 1860. , clerk."

Mr. Pike, for Henry M. Rector, offers the depositions of J. Barkman, Charles Rapley, Abner Hignight, Bernard Bonne, and Richard C. Hawkins, to be found on pages 206 to 212, inclusive, of this record.

294 To prove the death of witnesses, ALBERT PIKE, being sworn in open court, says:

I know Jacob Barkman, Abner Hignight, Charles Rapley, and Richard C. Hawkins to be dead, and to have died before the war. General Thomas Woodward is also dead.

Mr. Pike, for Henry M. Rector, also offers the depositions of Philip S. Physick, Edward Cross, and Wm. H. Lewis.

The deposition of Philip Physick, for claimant, taken at Little Rock, Arkansas, on the 20th day of December, A. D. 1873.

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether and in what degree you are related to the claimant.

Answer. My name is Philip Sing Physick; am a farmer; am seventy-nine years old, and have lived in Hot Spring County, Arkansas, for the past year; have no interest in this claim, and am not in any manner related to the claimant.

Being interrogated by Henry M. Rector, the claimant, the witness says:

Interrogatory 2. State when you came to the State of Arkansas, and whether you were at the Hot Springs, in Arkansas, in the summer of 1820. If so, in what month?

Answer. I came to Arkansas in 1820, and was at Hot Springs in the summer of 1820—the latter part of July of that year.

Interrogatory 3. What was the condition of the Hot Springs Valley, as to improvements, buildings, &c., in the month of July, 1820?

Answer. There was only one house in the valley, and some persons were living in tents.

Interrogatory 4. Was there any ground in cultivation at that time in the Hot Springs Valley, or near there—say within a half-mile of the main hot spring?

Answer. There was no land in cultivation in the Hot Spring Valley, nor within a half-mile of it.

Interrogatory 5. Did you know a man by the name of John Percifull in July, 1820?

Answer. Yes.

Interrogatory 6. Had John Percifull a farm on the Ouachita at that time, 1820?

Answer. He did.

Interrogatory 7. How far from the spring was Percifull's farm? State whether he made his home at said farm in the winter season when you knew him.

Answer. It was called six miles. I believe he made his home on the farm in the winter season.

Interrogatory 8. When you came to the springs in July, 1820, were there any indications that the land there or near there had been in cultivation previous to that time?

Answer. I saw no indications of that sort.

Interrogatory 9. When you arrived at the springs, or shortly thereafter, did you learn from common report in the neighborhood that a United States surveyor had located the hot springs with a New Madrid warrant? If so, state in what manner you learned he made the location, whether by actual survey by compass and chain; and state, if you know, whether he started his survey from one of the hot springs, as the beginning or initial point of said survey.

295 (The attorney for the United States objects to so much of the above interrogatory as calls for matter of common report, as being hearsay evidence.)

Answer. I did learn that a location had been thus made; that it was made by compass and chain, and by setting his staff in one of the hot springs and laying off so many arpents of land.

(The above answer objected to by the attorney for the United States, as being hearsay evidence.)

Interrogatory 10. Do you recollect the name of the surveyor who made this survey in 1820, as you understood?

(Question objected to by attorney of the United States for the reasons given above, as calling for hearsay evidence.)

Answer. His name was James S. Conway, as I understood.

Interrogatory 11. State if you knew James S. Conway subsequent to 1820?

Answer. I did.

Interrogatory 12. State, if you know, whether James S. Conway, to whom you refer, was subsequently governor of the State of Arkansas, and also United States surveyor-general of the district of Arkansas.

Answer. He was at one time governor of the State of Arkansas, and also United States surveyor-general for the district of Arkansas.

Interrogatory 13. State, if you know, what was the standing and

character of James S. Conway as a man and an officer of the United States and of Arkansas.

(Question objected to by the attorney for the United States as being irrelevant and immaterial.)

Answer. I believe he was a straight, honest, upright man, and a good officer.

Interrogatory 14. State whether you knew Jacob Barkman and Abner Hignite, now deceased, who lived in Clark County, Arkansas.

Answer. I knew them both very well.

Interrogatory 15. State, if you know, whether they were early settlers in the country. And were they or not men of good character and integrity when they lived?

(Question objected to by the attorney for the United States as immaterial.)

Answer. They were early settlers, and were men of good character and integrity.

Being cross-examined by William G. Whipple, attorney for the United States, the witness says:

Cross-interrogatory 1. Did you have any personal knowledge of any location of the New Madrid claim by James S. Conway during or about the year 1820, to which your examination-in-chief alludes?

Answer. I had no personal knowledge, only from report.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know nothing further, except what I have stated in a former deposition.

PHILIP S. PHYSICK.

Sworn to and subscribed before me this twentieth day of December, A. D. 1873.

HENRY C. CALDWELL.

The deposition of Edward Cross, for claimant, taken at Little Rock, Arkansas, on the 20th day of December, A. D. 1873.

Interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Edward Cross; am a farmer; and am seventy-five years old. My residence for the past year has been in Hempstead County, Arkansas. I have no interest in the claim which is the subject of this inquiry, and am not related in any degree to any of the parties.

Being interrogated by Henry M. Rector, the claimant, the witness says:

Interrogatory 2. State whether you are acquainted with Jacob Barkman and Abner Hignite, now deceased, who resided in Clark County, Arkansas.

Answer. I know them very well.

Interrogatory 3. Were Jacob Barkman and Abner Hignite early settlers in Arkansas?

Answer. I know them as far back as 1826. They were in the country when I came, and had been for some time previous.

296 Interrogatory 4. From your knowledge of these men and their character, were they men of integrity and truthfulness?

(Question objected to by Wm. G. Whipple, attorney for the United States, as immaterial and irrelevant.)

Answer. I considered them so, and such was their character in the community.

Interrogatory 5. State whether you testified before in this case.

Answer. Twice at least.

Being further examined by Wm. H. Gaines, for Belding heirs, the witness says:

Interrogatory 1. Were not you surveyor-general of the State of Arkansas in 1838?

Answer. I was about 1837 or 1838; I don't recollect exactly.

Interrogatory 2. Did Henry M. Rector make application to you as such surveyor-general in 1838, to have the Langlois survey and location made to the Hot Springs?

Answer. My impression is that there was some movement made on the subject.

Interrogatory 3. Did you make the order for the survey and location?

Answer. I do not recollect particularly in reference to that matter.

(Henry M. Rector, for self, objects to the three preceding interrogatories as being secondary evidence.)

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know of no other matter except what I have before stated in former depositions and in the present one.

ED. W. CROSS, SR.

Sworn to and subscribed before me this 20th December, 1873.

HENRY C. CALDWELL,
United States District Judge, Eastern District Arkansas.

The deposition of William H. Lewis, for claimant, taken at Little Rock, Ark., the 9th day of February, A. D. 1874.

First general interrogatory by the commissioner. Please state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is William H. Lewis; my occupation farmer. My age is forty-six years; my residence, Garland County, Arkansas, seven miles from Hot Springs. I have no interest in the claim, and am not related to the parties in the suit.

Being interrogated by Henry M. Rector, claimant, the witness says:

Interrogatory. State, Mr. Lewis, if you recollect, how long you have lived in Arkansas.

Answer. I came to Little Rock, Ark., in June, 1841.

Interrogatory. State where you resided in the summer of 1843.

Answer. I went to the Hot Springs Valley in the month of April or May, 1842; remained there about three years.

Interrogatory. State whether or not you are acquainted with Henry M. Rector, claimant in this suit, and John C. Hale, another party to, this suit.

Answer. I know them both.

Interrogatory. State where John C. Hale resided in the summer of 1843.

Answer. In the valley of Hot Springs.

Interrogatory. State what portion of the Hot Springs Valley Mr. Hale resided in when you knew him in the summer of 1843.

Answer. Very near the center of the valley.

Interrogatory. State, as well as you can recollect, what portion of the Hot Springs Valley Mr. Hale had possession of in the spring of 1843.

Answer. From about the center of the valley down south about three or four hundred yards, and from his house north up the valley some sixty or seventy yards to a line, which I understood to be the division-line between him and Mr. Milos H. Woods.

Interrogatory. State, as well as you recollect, what were the character and number of houses and improvements had or owned by Mr. Hale during the summer of 1843 in the Hot Springs Valley upon the possessions you have just described as being in his occupation or possession.

Answer. The house he occupied was on the east side of the street. There was a frame building on the east side of the street, occupied by Mr. Hale, of two rooms and a dining-room. There was a large two-story house on the west side of the street containing eight or ten rooms; also a row of cottages at the north end of this building extending to about the division-line, containing three or four rooms in all; also a log house, in which my father resided in the summer of 1843, some two or three hundred yards below the residence on the west side of the street.

297 There were also three small bath-houses in his possession. There was a cabin south of the two-story house about eight or ten feet. These constitute all the improvements he possessed, as near as I recollect.

Interrogatory. You have spoken of a division-line separating the possessions of Milos H. Woods and John C. Hale; state, if you know, who had possession of the property in the Hot Springs Valley north of that division-line during the summer of 1843.

Answer. To my best recollection and opinion Milos H. Woods was in possession of that portion north of the division-line, but I cannot state positively.

Interrogatory. State, if you recollect, whether or not Henry M. Rector, one of the parties to this suit, moved to with his family and resided in Hot Springs Valley in the summer of 1843.

Answer. He moved there with his familly in the spring of 1843, and resided there during the summer of that year.

Interrogatory. State, if you recollect, about what time in the spring Mr. Rector moved to the valley; and state, if you know, whether or not Mr. Rector removed from the valley with his family to Little Rock during that fall, 1843.

Answer. I can't recollect the precise time in the spring that he came to the springs, nor the precise time he left in the fall. He did move from there during the fall or winter with his family and came to Little Rock, as I understand and believe.

Interrogatory. State, if you recollect or know, whether or not Henry M. Rector did business at the springs during that year, 1843, in conjunction with John C. Hale.

Answer. That was my understanding.

Interrogatory. State what sort of business, if you know, he and Hale carried on during that summer, 1843.

Answer. They were in the hotel business.

Interrogatory. State, if you recollect or know, what grounds, possessions, and buildings they controlled in carrying on that business during that summer.

Answer. The hotel and bath-houses that I have before described as belonging to Hale.

Interrogatory. State, if you know, who had possession of those grounds, improvements, buildings, bath-houses, &c., which you have described as being under the control and in the possession of Rector and Hale in 1843; that is, after Rector left them in the fall of that year.

Answer. I think Mr. Hale had possession.

Interrogatory. State, if you can, how long you continued to reside in the valley after the summer of 1843.

Answer. I was there two or three years.

Interrogatory. State, if you recollect, in whose possession these buildings and improvement you have described were in during those two or three years subsequent to 1843, while you were in the valley.

Answer. Mr. Hale leased out the property to different parties soon after Mr. Rector left the springs, but I do not recollect who the parties were. Mr. Hale had control of the property.

Interrogatory. State where you have resided since you left the valley up to the present time.

Answer. At different places; in Garland County, within six or eight miles of Hot Springs, with the exception of three years.

Interrogatory. State, if you know, in whose possession and control that property in Hot Springs Valley, used and occupied by Rector and Hale in the summer of 1843, has been in since the fall of 1843, when Rector left there, up to the present time.

Answer. It has been held and controlled by Mr. Hale and those who held under him from 1843 up to the present time.

Interrogatory. State whether or not, within your knowledge, Henry M. Rector has ever controlled or had possession of any of the possessions or improvements of Hale in Hot Springs Valley as you have above described, since Rector left there in the fall of 1843.

Answer. Not that I know.

Interrogatory. State whether or not, within your knowledge, Henry M. Rector, about the year 1851 or 1852, acquired possession of any portion of the property in the Hot Springs Valley; and, if so, state what portion relatively to the division-line of Hale and Woods, above named.

Answer. I do not know what year Mr. Rector acquired possession of the property in Hot Springs Valley precisely; I know he has possession there now, and has had for a number of years past. His possessions lie north of that division-line.

Interrogatory. State, if you know, whether or not the possessions which Rector has there now are not the same as held by Milos H. Woods, of whom you formerly spoke.

Answer. The ground possessions are the same; none of the buildings that Woods occupied are there now.

Interrogatory. State, if you know, or according to the common report and history of the country there, what became of those buildings once occupied by Woods.

298 Answer. I think they were torn down and others erected in their place.

Interrogatory. State who erected those buildings.

Answer. I think a man by the name of Mitchell.

Interrogatory. State, if you know, from whom Rector acquired possession of the grounds and improvements occupied by Woods and Mitchell.

Answer. I don't know except from what I have heard.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not.

W. H. LEWIS.

Sworn to and subscribed before me this 9th day of February, A. D. 1874.

RALPH L. GOODRICH,
United States Commissioner.

To prove the death of Bernard Bonne, a witness, HENRY M. RECTOR being sworn in open court, says:

I know Bernard Bonne. I have not seen him for a number of years. The common reputation of the county is, that he is dead.

299 The following evidence was received and filed in the Court of Claims of the United States, and was, upon the trial of these consolidated cases, read by Mr. John B. Sanborn, of counsel in behalf of the claim of Henry M. Rector, (from page 299 to page 386 of this record.)

Copy of New Madrid certificate No. 467.

A, No. 1.

No. 467.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Nov. 26, 1818.

I certify that a tract of two hundred arpens of land situate Bayou St. John, in the county of New Madred, , which appears from the books of this office to be owned by Francis Langlois, has been materially injured by earthquake; and that, in conformity to the provisions of the act of Congress of 17 Feb'y, 1815, the said Francis Langlois, or his legal representatives, is entitled to locate two hundred arpens of land on any of the public lands of the Territory of Missouri, the sale of which is authorized by law.

Com'r *Megs.*, vol. 5, p. 88.

FRED'RICK BATES.

MISSOURI TERRITORY,
County of St. Louis:

I do hereby assign, transfer, and set over all my right, title, claim, and interest, for myself, and as attorney in fact for Francis Langlois, to or in the within certificate, and all the benefits and rights to be derived therefrom, to Samuel Hammon, his heirs and assignes, for and in consideration of the sum of six hundred & forty dollars, which sum I have recd. from the said Hammond in full consideration for the premises aforesaid.

Witness my hand this 4th Jan'y, 1818.

JOS'H STORY,
Attorney in Fact for Francis Langlois.

AUDITOR'S OFFICE, LITTLE ROCK, ARKS.

I, James R. Berry, auditor of state, Arkansas, do hereby certify that the foregoing page and this page contains a full, true, and perfect copy of an instrument of writing, with indors'ment, on file in this office among the records received from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office, at Little Rock, Arks., this 18th day of August, 1870.

[SEAL.] JAMES R. BERRY,
Auditor.

(Indorsed:) No. 1. United States Court of Claims, No. 6245. 6245, Henry M. Rector vs. The United States. Certified copy of New Madrid certificate, No. 467, issued to Francis Langloise, and assignment of same by Francis Langloise by Joseph Storey, his attorney in fact, to Elias Rector and Samuel Hammond. Filed Dec. 30, 1872. J. R.

Power of attorney from Francis Langlois to Joseph Story.

B, No. 1.

Know all men by these presents that I, Francis Langlois, of the county of New Madrid and Missouri Territory, for good causes & considerations me thereunto moving, have made, ordained, constituted, and appointed, & by these presents do make, ordain, constitute, & appoint Joseph Story, of the county and Territory aforesaid, my true & lawful agent & attorney in fact, irrevocable, for the purposes following, to wit: Whereas the liberality, justice, and wisdom of the Congress of the United States, by an act approved the 17th day of Feb'y, 1815, entitled An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes, provides that those whose lands have been materially injured by earthquakes shall be authorised to locate the like or greater quantity on any of the public lands of the said Territory, the sale of which is authorised by law; & being one of those who are entitled to any of the provisions of the said act, now, know ye that I, Francois Langlois, have given & hereby do give full power & authority to my said attorney to locate on any of the aforesaid public lands in the said Territory any quantity of land which I may be entitled to by virtue of the aforesaid act, for his own proper use, benefit, & behoof, & that of his heirs & assigns, forever, & to sell & convey & transfer the same absolutely to any person or persons whatsoever, for such price and consideration which he may think fit; also with power & authority to my said attorney to sell & convey unto the United States, or any officer under the Government who receive the same, my injured land lying & being situate in the county of New Madrid, & Missouri Territory, containing two hundred arpents, it being a part of land confirmed by the late board of commissioners of land-claims for the aforesaid Territory to Francis Langlois, on Bayou St. John, and generally in the premises to do, execute, & perform all & whatsoever shall be requisit' & necessary in as full and ample a manner as I myself might or could do were I personally present; also with power of substitution, hereby ratifying and confirming all & whatsoever my said attorney shall lawfully do or cause to be done by virtue hereof.

In witness whereof I have hereunto set my hand & seal this 10th day of November, anno Domini 1818.

his
FRANCOIS + LANGLOIS. [SEAL.]
mark.

Signed, sealed, & delivered in presence of—
RICH'D J. WATERS.
THOMAS Y. HORSLEY.

Filed in my office for record this 11th day of June, A. D. 1838.
IRA A. SABIN, *Clk.*

Filing	$0 6¼
Recording	1 10
Certificate & seal	1 00
	2 16¼

IRA B. SABIN, *Clerk.*

TER'ITORY OF MISSOURI,
County of New Madrid, sc:

I, Rich Tessums, clerk of the southern circuit court within and for the county of New Madrid, do hereby certify that Thomas Y. Horsley, one of the subscribing witnesses to the within instrument of writing, this day personally came and appeared before me and made oath according to law that he was present and saw the within named and
300 signed Francis Langlois sign, seal, and deliver, & heard him acknowledge the within and foregoing instrument of writing as his act and deed, hand & seal, for the use and purposes therein expressed; and that Rich'd J. Waters, the other subscribing witness, signed the same with himself & in the presence of each other. In testimony whereof, there being no judicial seal yet procured to said court, I hereunto subscribe my name & affix my own private seal this November 13th day, in the year 1818.

RICH TESSUMS, *Clk.* [SEAL.]

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Ira A. Sabin, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 11th day of June, A. D. 1838, and the same is now duly recorded in "record-book ," page .

In testimony whereof I have hereunto set my hand and affixed the seal of my office, at Hot Spring', the 14th day of June, in the year of our Lord one thousand eight hundred and thirty-eight, and of the Independence of the United States the sixty-second year.

[SEAL.] IRA A. SABIN,
Clerk and Ex-officio Recorder.

[Certificate of record.—Sold by Wm. E. Woodruff, Little Rock, Arks'.]

(Indorsed:) No. 467. Frc. Langlois. 200 arps. B. Francois Langlois' power of attorney for 200 arps. of land, on Bayo' St. John to Josseph Story. Received from Mr. F. S. Key, July 7, 1838.

(Also indorsed:) No. 2. United States Court of Claims, No. 6245, 6245. Henry M. Rector vs. The United States. Power of attorney from Francis Langloise to Joseph Story to locate lands in lieu of Langloise's lands that had been sunk by earthquakes, in his, Story's, own right, and for his own use and benefit. Filed Dec. 30, 1872. J. R.

Deed of Francis Langlois and wife to Joseph Story.

This indenture, made this 12th day of July, one thousand eight hundred and nineteen, by & between Francis Langlois and Barbary, his wife, of the county of New Madrid and Missouri Territory, of the one part, and Joseph Story, of the other part, witnesseth that the said Francis Langlois and Barbary, his wife, for and in consideration of the sum of two hundred & sixty dollars to them in hand paid, by him, the said Joseph Story, before the delivery of the presents, the receipt whereof is hereby acknowledged, they have this day granted, bargained, & sold, and they do by these presents grant, bargain, and sell unto him, the said Joseph Story, his heirs & assigns, a certain tract or parcel of land situate, lying, & being in the county of New Madrid and Missouri Territory, containing two hundred arpens on Bayo' St. John, which said tract of land was confirmed to me, Francois Langlois, by the late board of commissioners of land-claims for the aforesaid Territory, which said tract of land has been materially injured by earthquakes, and under the act of the Congress of the United States of the 17th February, 1815, for the relief of the late county of New Madrid, in the aforesaid Territory, the said land is sold in consequence of which, and all the privileges and advantages arrising therefrom: To have and to hold the said tract or parcel of land, together with all and singular the privileges and appurtenances thereto belonging unto him, the said Joseph Story, and his heirs forever; and the said Franc'is Degan hereby covenantts and agrees to warrant and defend the said bargained and sold premises, together with all and singular the privileges aforesaid unto him, the said Joseph Story, and his heirs and assigns, free from all claims, demands, or encumberances of whatever nature. Witness our hands and seals the day and year first above written.

FRANCOIS + (his mark.) LANGLOIS. [SEAL.]

BARBARY + (her mark.) LANGLOIS. [SEAL.]

Signed, sealed, and delivered in the presence of—
ROB'T G. WATSON.

TERRITORY OF MISSOURI,
County of New Madrid, ss:

Be it remembered that, before me, Rob't D. Dawson, one of the justices of the peace in and for the county aforesaid, personally came and appeared Francois Langlois & Barbara Langlois, his wife, and acknowledged the above and within instrument of writing to be their act and deed for the purposes therein mentioned; and the said Barbara Langlois being made fully acquainted with the contents of said instrument, and being by me examined seperate & apart from her said husband, says she freely and volu'tar'y signed and sealed the same, without any compulsion, threats, or fear of the displeasure of her said husband.

Given under my hand and seal this twelfth day of July, eighteen hundred and nineteen.

ROBERT D. DAWSON. [SEAL.]

STATE OF MISSOURI,
County of New Madrid, ss:

I, John A. Mott, clerk of the circuit court an' ex-offic'o recorder in and for said county and State, do hereby certify the above and foregoing is a true and perfect transcript of the record of a deed from Francois Langloy & Barb'ry Langlois to Joseph Story, together with the certificate of acknowledgment of the same as fully as they now appear of record in my office.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at office, in New Madrid, this 22d day of August, 1870.

[SEAL.] JOHN A. MOTT, *Clerk.*

[5-cent. int. rev. stamp canceled.]

(Indorsed:) No. 3. United States Court of Claims. No. 6245. 6245. Henry M. Rector vs. The United States. Certified copy of record of deed of Francis Langloise & wife to Joseph Story, of date July 12th, 1819. Filed December 30, 1872. J. R.

301 *Agreement and transfer by Joseph Story to Elias Rector & Samuel Hammond.*

M, No. 1.

This agreement, made and entered into this twenty-fourth day of February, one thousand eight hundred and twenty-one, by and between Joseph Story of one part, and Samuel Hammond & Elias Rector of the other part, witnesseth that the said Joseph Story, for and in consideration of the sum of one dollar to him in hand paid by the said Hammond & Rector, the receipt whereof is hereby acknowledged, has granted, bargained, and sold, and by these presents grants, bargains, sells, & conveys to the said Samuel Hammond & Elias Rector, his right, title, & interest in certificate No. four hundred and sixty-seven, (467,) issued by Frederick Bates, recorder of land-titles for the Territory of Missouri, to Francois Langlois, or his legal representatives, dated St. Louis, 26th of November, 1818, for two hundred arpens, and deeded from said Langlois to said Story, which deed is recorded at New Madrid: To have and to hold to the said Samuel Hammond & Elias Pector, their heirs or assigns, forever; and the said Joseph Story, for himself, his heirs, and assigns, covenants to and with the said Hammond and Rector, their heirs & assigns, that he will warrant & forever defend to them, their heirs and assigns, the said certificate against the claim or claims of any person or persons whatsoever.

In witness whereof the said Joseph Story has hereunto set his hand and seal the day and year above written.

JOS'H STORY. [SEAL.]

Signed, sealed, and delivered in the presence of—
("Fourth" wrote on an erasure before signing.)

J. V. GARNIER.

*STATE OF MISSOURI,

County of St. Louis, ss:

Be it remembered that, on the day of the date thereof, before the un-

*This certificate is erased in the original.

dersigned justice of the peace of the county of St. Louis, personally appeared the within-named Joseph Story, who acknowledged the instrument of writing on the other side to be his act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and seal this 24th day of February, A. D. 1821.

J. V. GARNIER, *J. P.* [SEAL.]

STATE OF MISSOURI, *ss:*

Be it remembered that, on the day of the date hereof, before the undersigned, a notary public of the county of St. Louis, in the Territory aforesaid, duly commissioned, residing in the town of St. Louis, personally appeared Joseph Story, who acknowledged the within instrument of writing to be his act and deed for the purpose therein mentioned.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, at St. Louis aforesaid, this twenty-fourth day of February, A. D. 1821.

[SEAL.] J. V. GARNIER, *N. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Ira A. Sabin, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 12th day of March, A. D. 1838, and the same is now duly recorded in "record book A," page' 96, 97, 98.

In testimony whereof I have hereunto set my hand and affixed the seal of my office, at Hot Springs, the 12th day of March, in the year of our Lord one thousand eight hundred and thirty-eight, and of the Independence of the United States the sixty-second year.

[SEAL.] IRA A. SABIN,
Clerk and Ex-officio Recorder.

[Retailer's license.—Wm. E. Woodruff, printer, Little Rock, A. T.]

TERRITORY OF ARKANSAS,
County of Clark, ss:

Be it remembered that, on the 22nd day of July, A. D. 1821, the within deed or instrument of writing and certificate was received in the office of the clerk of the court of common pleas for the county aforesaid and ex-officio recorder, and duly recorded in book A, pages 62, 63.

HENRY L. BISCOE,
Clk. and Ex-officio Rec.

(Indorsed:) 24 Feb., 1821. Joseph Story to S. Hammond & Elias Rector. Deed. H. M. No. 2. T. tax, 50; recording, 57; certificate, 20—$1.27. Henry L. Biscoe, clk. Filed for record in my office this 12th day of March, 1838. Ira A. Sabin, clk. an' ex-officio recorder.

(Also indorsed:) No. 4. 6245. United States Court of Claims, No. 6245. Henry M. Rector vs. the United States. Assignment and transfer by Joseph Story to Elias Rector and Samuel Hammond, of New Madrid certificate, No. 467, issued to Francoise Langloise on Nov. 26th, 1818. Filed Dec. 30, 1872. J. R.

Application of Elias Rector and Samuel Hammond for survey.

Gen'l William Rector, surveyor-g'n'l of the public lands for the State of Illanois & Territory of Missouri.

The undersigned applies for the entrey or location of two hundred arpins of land to satisfy a certificate issued by Fredrick Bates, esq., recorder of land-titles for the Territory of Missouri, to Francois Langlois or his legal representatives, dated the 26th November, 1818, and numbered four hundred & sixty-seven, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, & to include the Hot Springs (so called) upon the waters of Ouachita River, south of the River Arkansas, the said springs to be as near the center of the square as circumstances will admit. An order of survey is solicited & directions agre'ably to this notice. The springs so to be included are those generally known as the largest & most resorted to upon that river.

St. Louis, 27 Jany., 1819.

S. HAMMOND.
ELIAS RECTOR.

AUDITOR'S OFFICE, LITTLE ROCK, ARKS.

I, James R. Berry, auditor of the State of Arkansas, do hereby certify that the foregoing page contains a full, true, and perfect copy of an instrument of writing on file among the records of this office.

302 In witness whereof I have set my hand and affixed the seal of office, at Little Rock, Ark., this first day of August, A. D. 1870.

[SEAL.] JAMES R. BERRY, *Auditor.*

AUDITOR'S OFFICE, LITTLE ROCK, ARKS.

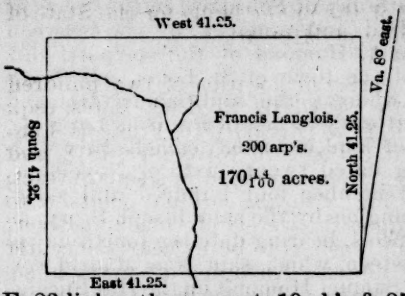
I, James R. Berry, auditor of Arks., do further certify that the original of which the foregoing is a copy is on file in my office, among the papers received at this office from the late United States surveyor-general's office for Arkansas. In witness whereof I have hereunto set my hand and affixed the seal of office this eighteenth day of Aug., 1870.

[SEAL.] J. R. BERRY, *Auditor.*

(Indorsed:) 6245. United States Court of Claims. No. 6245. Henry M. Rector vs. The United States. No. 5. Certified copy of application of Elias Rector and Samuel Hammond to have surveyed and located two hundred arpents of land by New Madrid certificate No. 457, so as to include the Hot Springs of the Ouachita, south of the Arkansas. Filed Dec. 30, 1872. J. R.

(Also indorsed:) Class No. 465. Certificate No. 467. Sam. Hammond & Elias Rector. 160 acres. Presented 27th Jan'y, 1819. Recorded page 324, bund. 205. Certif. No. 467. Ap'end No. 1.

Copy of survey of lands located by New Madrid certificate.



Survey 2903. Certificate No. 467. Surveyed for Francis Langlois or his legal representatives. 200 arpens of land located by virtue of a New Madrid certificate.

Begin'ing at a post, from which a pine 10 inches in diameter, (marked thus, H. & R.,) bears S. 47 E., 8 links; thence south 7 chains, a creek 15 links wide runs east, at 41 ch's & 25 l'ks, set a post from which a pine, 15 inches in diameter, bears N. 47½ E. 23 links; thence east, 19 ch's & 25 l'ks, to Hot Spring Creek, 25 l'ks wide, runs south; at 41 ch's & 25 links, set a post from which a P. oak, 10 inches diameter, bears S. 86 E., 6 links; thence north, at 41 ch's & 25 links, set a post from which a red oak, 6 inches in diameter, bears S. 62° W. 16 links; thence west 41 ch's & 25 l'ks to the beginning.

July 16th, 1820.

JAMES S. CONWAY,
D. Surveyor.

SURVEYOR'S OFFICE,
Little Rock, Ark., 23d Sept., 1850.

This paper and a duplicate of the same were left at this office to be filed with the papers of New Madrid claim-certificate No. 467, on the 18th day of June, 1850, by Henry M. Rector, but are not of record here, nor known as constituting any part of the official papers connected with said claim.

The duplicate was withdrawn by Henry M. Rector on the 12th day of September, 1850.

GEO. A. WORTHEN, *Ch'f Cl'k.*

AUDITOR'S OFFICE, LITTLE ROCK, ARK'S.

I, James R. Berry, auditor of the State of Arkansas, do hereby certify that the foregoing page and this page contain a full, true, and perfect copy of an instrument of writing on file among the records of this office.

In testimony whereof I have set my hand and affixed the seal of office at Little Rock, Ark's, this first day of Aug., 1870.

[SEAL.] JAMES R. BERRY, *Auditor.*

AUDITOR'S OFFICE, LITTLE ROCK, ARK'S.

I, James R. Berry, auditor of Ark's, do further certify that the original, of which the foregoing is a copy, is on file in my office among the the papers received at this office from the late United States surveyor-gen'l's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office this eighteenth day of Aug., 1870.

[SEAL.] J. R. BERRY, *Auditor.*

(Indorsed:) 6245. United States Court of Claims. No. 6245. Henry M. Rector against the United States. No. 6. Certified copy of survey of lands located by New Madrid certificate No. 467, by James R. Conway, deputy U. S surveyor, July 16th, 1820. Filed Dec. 30, 1872. J. R.

Deed from S. Hammond and wife to Elias Rector.

This indenture, made the nineteenth day of February, in the year of Lord one thousand eight hundred and nineteen, by and between Samuel Hamond and his wife, Eliza A. Hamond, of the one part, and Elias Rector of the other part, all of the town of St. Louis, and Territory of Missouri, witnesseth: That whereas the said Samuel Hamond purchased of Joseph Story, as the attorney in fact of Francois Langlois, a certificate for two hundred arpens of land, commonly called a New Madrid certificate, said certificate being dated twenty-sixth of November, eighteen hundred and eighteen, and number four hundred and sixty-seven, said deed of said Francois Langlois by the said Joseph Story, as the attorney in fact of the said Francois, bearing date the fourth day of January, eighteen hundred and nineteen, which said New Madrid certificate has been located by the said Samuel Hamond on the Hot Springs on the Wachataw, in the county of Arkansas, in the said Territory; now the said Samuel and Eliza A., his wife, for and in consideration of the sum of six hundred dollars, by the said Elias to the said Samuel in hand paid, the receipt whereof is hereby acknowledged, at and before the ensealing and delivery of these presents, have granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, convey, and confirm unto the said Elias Rector, one undivided moiety of the said New Madrid certificate, and the rights and interests accruing or arising from the same; and also the one undivided moiety of the said lands located, as aforesaid, in virtue of said certificate on the said Hot Springs, in the said county of Arkansas; or, if the said location should be removed by the parties hereto, the one undivided moiety of such lands as may be hereafter located in virtue of said certificate by the said parties hereto, to have and to hold unto the said Elias Rector, his heirs and assigns forever, the above sold one undiv'ed moiety and interest in the said New Madrid certificate, and the said
303 undiv'ed moiety of the said land, as aforesaid, located in virtue thereof, or which may hereafter be located in virtue thereof, in the event of the removal of the same by the parties hereto; and the said Samuel, for himself, his heirs, executors, and administrators, doth, by these presents, covenant to and with the said Elias Rector, his heirs and assigns forever, that he, the said Samuel, and Eliza A., his wife, have the true and only legal and equitable title to the said certificate or the interest and property in the same.

In testimony whereof we, the said Samuel Hamond and Eliza A. Hamond, his wife, have hereunto set our hands and seals the day and date first above written, with the words "in virtue of said certificate" interlined.

S. HAMMOND. [SEAL.]
ELIZA A. HAMMOND. [SEAL.]

Signed, sealed, and delivered in the presents of—
JAS. H. PECK.
GARRET ANDERSON.

TERRITORY OF MISSOURI,
County of St. Louis, ss:

This day personally appeared before me, the deputy clerk of the circuit court within and for the county of S. Louis, the within-named Samuel Hammond and Eliza, his wife, and sever'ly acknowledged the within deed or instrument in writing to be their and each of their hands and

seals, acts and deeds for the purposes therein mentioned; and the said Eliza Hammond, wife of the said Samuel, being by me made acquainted with the contents of said deed, and examined seperately & apart from her said husband, acknowledged that she signed the same freely and voluntarily, and without the compulsion or undue influence of her said husband.

Given under my hand and seal of office this second day of March, in the year of our Lord one thousand eight*een* hundred and nineteen, and of our Independence the forty-fourth.

[SEAL.] JOHN C. LONG, *D. Clk.*,
For ARCHIBALD GAMBLE, *Clerk.*

N, No. 1.

TERRITORY OF MISSOURI, *ss:*

Be it known that on the day of the date hereof, before Joseph V. Garnier, a notary public of the Territory aforesaid, duly commissioned, residing in the town of St. Louis, personally appeared Samuel Hammond and Eliza A. Hammond, his wife, who acknowledged the within deed or instrument of writing to be their act and deed for the purposes therein mentioned; and the said Eliza A. Hammond, the wife of the said Samuel, being by me examined separately and apart from her said husband, doth make her free and voluntary acknowledgment that she is well acquainted with the contents of the said deed, and hath executed the same free from the compulsion or undue influence of her said husband.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, at St. Louis aforesaid, this eighteenth day of March, in the year eighteen hundred and twenty.

[SEAL.] J. V. GARNIER, *N. P.*

(Indorsed:) No. 1. Francois Langlois, original cl't. 10th Feb., 1819. S. Hamond & wife to E. Rector. Deed. 200 arpens.

Recd. for record this 19th day of May, A. D. 1820, & recorded in book A, folio' 47, 48, 49, 50.

DAVID McCORMICK, *Dep'ty Clk.*,
For WM. P. S. BLAIR, *Clk.*

Cl'k' fees:

Recording, at 15 cts. per folio	$1 42
Certificate & seal	50
Tax-fee	50
	$2 42

Rec'd.

D. McC., *Dep'y.*

TERRITORY OF ARKANSAS,
County of Clark, ss:

Be it remembered that on this nineteenth day of May, A. D. 1820, the within deed was filed for record, and is duly recorded in book A, folio' 47, 48, 49, 50.

Given under my hand and private seal, (there being no public seal,) at office, the day and year above written.

[SEAL.] DAVID McCORMICK,
Dep'y Clk.,
For WM. P. S. BLAIR,
C. C. C. C. C.

Filed for record in my office this 12th day of March, 1838.

IRA A. SABIN,
Clerk and Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Ira A. Sabin, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 12th day of March, A. D. 1838, and the same is now duly recorded in record-book A, page' 99 & 100.

In testimony whereof I have hereunto set my hand and affixed the seal of my office, at Hot Springs, the 12th day of March, in the year of our Lord one thousand eight hundred and thirty-eight, and of the Independence of the United States the sixty-second year.

[SEAL.]

IRA A. SABIN,
Clerk and Ex-officio Recorder.

(Indorsed:) 6245. United States Court of Claims. No. 6245. Henry M. Rector vs. The United States. No. 7. Deed from Samuel Hamond and Eliza Hammond, his wife, to Elias Rector, of the undivided moiety of New Madrid certificate No. 467, and of the lands covered by the Hot Springs location of the same, dated February 19th, 1819. Filed Dec. 30, 1872. J. R.

304 *Copy of last will and testament of Elias Rector.*

APPENDIX P.

Feeling impressed with the belief that I may soon die, and being now of sound and disposing mind, I do make this my last will and testament:

First. It is my will and desire that my beloved wife, Frances B., have, hold, and retain to herself, in full and entire property, all the estate real, personal, or mixed, of every description, which has or may have descended to her from her deceased father's estate; and particularly the negroes that have descended to her since her mother's death, and which are yet undivided amongst the heirs; and also a tract of land containing two or three hundred acres more or less, it being an undivided interest held by her as one of the heirs of her father, John Thurston, in and to a tract situate on Sandy; and it is furthermore my will and desire that my dear wife hold and enjoy a life-estate in every other species of property, real, personal, or mixed, of which I may die seized or possessed, or to which I might have become entitled by descent or inheritance.

Secondly. It is my will and desire that my estate, at the death of my said wife, may be equally divided amongst my three children whose tender ages will impose upon their kind mother a long and troublesome guardianship, which I am well assured she will take upon herself cheerfully, and in the discharge thereof acquit herself as becomes an affectionate mother.

Thirdly. I do nominate my beloved brother, Gen'l William Rector, and my esteemed friend Gen'l William Ashly to be executors of this my last will. As witness my hand and seal this ninth day of August, eighteen hundred and twenty-two.

ELIAS RECTOR. [SEAL.]

Attest:
B. G. FARRAR.
R. WASH.

STATE OF MISSOURI,
County of St. Louis, ss:

We, B. G. Farrar and Robert Wash, two subscribing witnesses to the within last will and testament, *and* solemnly swear that Elias Rector signed & published the same as his last will and testament; that at the time of publishing the same he was of sound mind; and that we, in his presence and at his request, signed the same as subscribing witnesses in the presence of each other.

R. WASH.
B. G. FARRAR.

Sworn and subscribed in open court, Aug't 30th, 1822.
SILAS BENT, *Clerk.*

Recorded Sept. 9th, 1822.
JNO. BENT, *Dep. Clerk.*

STATE OF MISSOURI,
County of St. Louis, ss:

I, Wm. E. Wagner, clerk of the probate court of the county of St Louis, do hereby certify that the foregoing is a true copy of the last will and testament of Elias Rector, deceased, and of the probate thereof as fully as the same remains on file and appears of record in my office.

In testimony whereof I hereunto set my *my* hand and affix the seal of said court, at office, this 8th day of August, A. D. 1870.

[SEAL.] W. E. WAGNER, *Clerk.*

[5-ct. int. rev. stamp, canceled.]

STATE OF MISSOURI,
County of St. Louis, ss:

I, Joseph P. Vastine, sole and presiding judge of the probate court in and for said county, in the State aforesaid, do hereby certify that the foregoing attestation of Wm. E. Wagner, clerk of said court, is in due form.

Given under my hand at the city of St. Louis, this 8th day of August, 1870.

J. P. VASTINE,
Judge of Probate.

[5-ct. int. rev. stamp, canceled.]

(Indorsed:) No. 8. 6245. United States Court of Claims, No. 6245. Henry M. Rector against The United States. Certified copy of last will and testament of Elias Rector. Filed Dec. 30, 1872. J. R. No. 8.

(Als' indorsed:) Elias Rector. Copy of will.

Copy of instructions of the surveyor general of Ark. to J. C. Hale.

SURVEYOR'S OFFICE,
Little Rock, 12th May, 1837.

SIR: You will herewith receive a sketch of your district, with the necessary description of corners on the black or surveyed lines. You will also receive a copy of the locations of New Madrid certificate No. 467,

which you are required to survey in exact accordance with the location & previous to the survey of the public lines. The survey is to contain the exact quantity of 200 arpens or $170\frac{14}{100}$ acres, and you will shew by your operations the main spring to be in the middle thereof. At the corners of the survey you will take one bearing-tree within the survey marked P. S., and one bearing-tree without.

The following is the form for keeping the notes of the survey:

Certificate No. 467.

Surveyed for Francis Langlois, or his legal representatives, 200 arpens, equal to $170\frac{14}{100}$ acres of land, begin'ing at the main hot spring of Arkansas, thence (on an unmarked line until you establish a corner, &c.,) set post * * corner of said survey from which, &c., * bears, &c., * links, & marked P. S., and a, &c., * bears, &c., * links; thence, &c., * to the beginning corner-post. At the intersections of a township or section-line with the private survey, you will establish a corner to the proper sections, and extend the lines in the usual manner, except that part being unmarked lying within the private survey. The east boundaries of t'w's' 3 S., r's 18 & 19 W., will be run north to their intersection with the south boundary of T. 2 S., and corners established in t'w's' 3 south.

In meandering, you will state whether it be on the right or left bank of a river, at what corner, you commence & close the meanders. In closing meanders on an old surveyed line, where the corner has been destroyed you will establish a new one and state the distance to the nearest known corner on the line. Bearing-trees to corners should invariably be taken in the sections which the corner denotes. The red lines on your sketch are laid down as it is supposed you will find them 305 on the ground. The S. boundaries of t'w's 1, 2, & 3, R. 19, will probably vary from the cardinal points some degrees. From the difficulty which has been and will be found in surveying this district, more than ordinary care will be required to insure a correct execution of the work. These instructions and sketch will be returned with your field-notes to this office.

I am sir, respectfully, your obt. servt.,

EDW'D CROSS,
Sur. Pub. Lands.

J. C. HALE, *D. S.*

AUDITOR'S OFFICE, LITTLE ROCK, ARKANSAS.

I, James R. Berry, auditor of the State of Arkansas, do hereby certify that the foregoing two pages and this page contain a full, true, and perfect copy of an instrument of writing on file among the records of this office.

In witness whereof I have set my hand and affixed the seal of office, at Little Rock, Ark's, this first day of August, A. D. 1870.

[SEAL.] JAMES R. BERRY,
Auditor.

AUDITOR'S OFFICE, LITTLE ROCK, ARK'S.

I, James R. Berry, auditor of Ark's, do further certify that the original, of which the foregoing is a copy, is on file in my office, among the papers received at this office from the late United States surveyor-general's office for Arkansas.

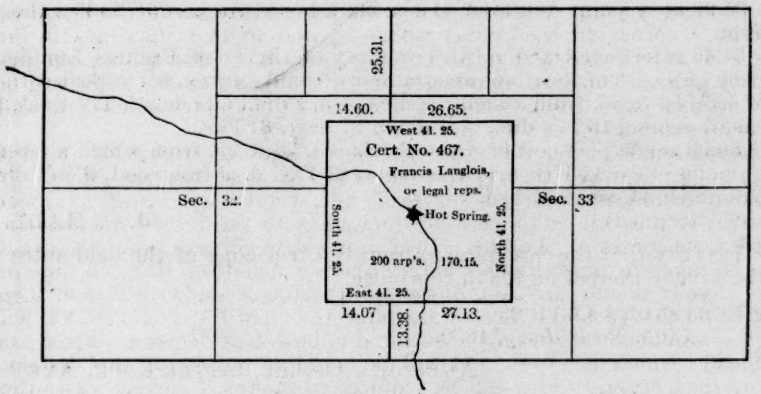
In witness whereof I have hereunto set my hand and affixed the seal of office this eighteenth day of Aug., 1870.

[SEAL.] J. R. BERRY,
Auditor.

(Indorsed:) 6425. United States Court of Claims. No. 6245. No. 9. Henry M. Rector vs. the United States. Certified copy of instructions of the surveyor-general of Arkansas to J. C. Hale, district surveyor, to survey the lands covered by the location of New Madrid certificate No. 467. Instructions dated May 12th, 1837. Filed Dec'r 30, 1872. J. R.

(Also indorsed:) Copy of instructions to J. C. Hale, D. S., 12th May, 1837. Proof Dv. Order of survey, 1837. O.

Copy of field-notes & survey made by J. C. Hale, district surveyor.



Certificate No. 467.

Var. 8° 45 east.

Surveyed for Francis Langlois, or his legal representatives, who claims location by virtue of certificate No. 467, issued by Fred'rick Bates, recorder of land-titles, on the 26th November, 1818, two hundred arpens, equal to one hundred and seventy and fifteen-hundredths acres of land, beginning at the main hot spring of Arkansas; thence S. 45° E., on an unmarked line 29.17 ch's, where set a post, the southeast corner of said survey, from which a pine, 24 in's dia., bears N. 7° E. 40 l'ks, and a pine, 16 in's dia., bears N. 67° W., 53 l'ks, each marked P. S. & B. T.; thence north (with the line of the survey) at 204 l'ks, a white-oak, 13 in's dia., at 41.25 ch's, set a post, the northeast corner of said survey, from which a pine, 16 in's dia., bears N. 45° E. 14 l'ks, and a black-oak, 8 in's dia., b'rs S. 68° W. 15 l'ks, each marked P. S. & B. T.; thence west at 355 l'ks, a white-oak, 24 in's dia., at 41.25 ch's, set a post, the northwest corner of said survey, from which a white-oak, 16 in's dia., b'rs N. 10° E. 48 links, and a white-oak, 18 in's dia., b'rs S. 58° E. 56 links, each marked P. S. & B. T.; thence south at 60 l'ks, a white-oak, at 12.10 ch's Hot Spring Creek bears east at 41.25 ch's, set a post, the southwest corner of said survey, from which a black-oak, 6 in's dia., bears N. 48° E. 21 l'ks, and a black-oak, 10 in's dia., b'rs N. 28° W. 50

l'ks; thence east at 5.63 links, a black-oak, 12 in's dia., at 1887 ch's, Hot Springs Creek b'rs south at 41.25 ch's, the southeast corner of said survey.

In conformity with instructions from the surveyor-general, I have surveyed the foregoing location or claim in the name of Francis Langlois, so that the main hot spring is in the center thereof.

28th Feb'uary, 1838.

JOHN C. HALE, *D. S.*

Extract from the field-notes of T. 2 south, R. 19 west of the 5' principal M., north, between sec's 32 & 33, T. 2 S., R. 19 W., var. 7° 15' E.

305, a black-oak, 16 in's dia.

13.38 private survey of Francis Langlois. Set a post 14.07 ch's east of the southwest corner to said private survey corner to sec's 32 & 33, from which a white-oak, 20 in's dia., b'rs south 37° E., 68 l'ks, & a gum, 12 in's dia., b'rs south 27 west, 23 l'ks.

34.00 at a point due west of the main hot spring, and 720 l'ks therefrom.

54.69 intersected the north boundary of survey of Francis Langlois, 14.60 ch's east of the northwest corner of said survey, set a post corner to sec's 32 & 33, from which a pine, 14 in's dia., b'rs north 17° west, 12 l'ks, & a pine, 16 in's dia., b'rs north 27 east, 31 l'ks.

80.00 set a post-corner to sec's 32, 33, 28 & 29, from which a sweet-gum, 20 in's dia., b'rs south 54 west, 21 l'ks, & a' ironwood, 6 in's dia., b'rs north 34, west 43 l'ks.

(Signed) J. C. HALE.

I certify that the foregoing extract is a true copy of the field-notes of the survey thereof on file in this office.

SURVEYOR'S OFFICE,
Little Rock, Jan'y, 1839.

306 AUDITOR'S OFFICE, LITTLE ROCK, ARK'S.

I, James R. Berry, auditor of the State Arkansas, do hereby certify that the foregoing three pages contain a full, true, and perfect copy of an instrument of writing on file among the records of this office.

In witness whereof I have set my hand and affixed the seal of office, at Little Rock, Ark's, this first day of August, A. D. 1870.

[SEAL.] JAMES B. BERRY, *Auditor.*

AUDITOR'S OFFICE, LITTLE ROCK, ARK'S.

I, James R. Berry, auditor of Arkansas, do further certify that the original, of which the foregoing is a copy, is on file in my office among the papers received at this office from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office this 18th day of August, A. D. 1870.

[SEAL.] JAMES R. BERRY, *Auditor.*

(Indorsed:) United States Court of Claims. No. 6245. 6245. Henry M. Rector vs. The United States. No. 10. Certified copy of the field-notes and survey of the lands located with New Madrid certificate No. 467, as made by J. C. Hale. Filed Dec. 30, 1872. J. R.

(Also indorsed:) Certificate No. 467. Francis Langlois' survey. 200 arpens land. Proof Dv. Survey by Hale. P. Bund. 205, certif. No. 467. Ap'end. No. 3. Recorded page 110, book of private surveys. Surveyor's office, Little Rock, Ark's. Nos. 1, 2, 3, 4, & 5.

K No. 1.—*List of certificates issued by the recorder of land-titles under the act of Congress of the 17th of February, 18\5, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Territory of Missouri, who suffered by earthquakes," which have been located in the present Territory of Arkansas.*

RECORDER'S CERTIFICATE.						LOCATION.				
No.	No.	Date.	Quantity.		To whom issued.	Date.	At whose instance.	Where situate.		
			Acres.	Arp's.				T'w'p.	R'ng.	Mer'd'n.
Survey 2512	8	12th Nov., 1815..	160	.....	Francis Lesieur.....	30th Nov., 1819 ..	James C. Canfield.....	1 N.	12 W.	5th p. m.
Survey 2493	15	12th Nov., 1815..	160	.....	Peter Porier.....	31st Jan'y, 1820 ..	Stephen H. Long, by W. M. O'Hara..	1 N.	12 W.	5th p. m.
Survey 2518	33	30th Nov., 1816..	160	.....	John Dorlac, or reps.....	26th Feb'y, 1819..	W. M. O'Hara and Stephen F. Austin†			
Survey 2479	140	5th Sept., 1816 ..	640	.....	Elizabeth Jones.....	25th April, 1823..	James Russell, agent for William Russell.	19 S.	25 W.	5th p. m.
Survey 2849	156	30th Nov., 1815 ..	640	.....	Henry Cockersham.....	30th Oct., 1820...	W. M. O'Hara	1 & 2 N.	12 W.	5th p. m.
Survey 2487	158	29th Oct., 1816...	.....	240	Benjamin Denint, ass'ee of Robert White, ass'ee of Francis Racine.	16th July, 1822 ..	William Russell.....	2 S.	5 E.	5th p. m.
	172	16th Dec., 1816 ..	480	.....	Richard J. Waters, as derived from Benj. Harrison.	14th April, 1823..	Joel Campbell	19 S.	26 W.	5th p. m.
	201	4th Dec., 1816 ...	640	.....	Andrew Robertson, senr.....	16th April, 1823..	Jas. Hickman.....	19 S.	25 W.	5th p. m.
	236	14th Jan'y, 1817..	.....	320	Benjamin Fody, under William Porter.	11th April, 1823..	George W. Ferebee, administrator of Robert M. Desha, dec't.	3 N.	14 W.	‡5th p. m.
	237	14th Jan'y, 1817..	640	.....	Caty Gallowhorn	21st Dec., 1819 ..	William Russell, agent for the heirs of Caty Callowhorn.	8 N.	8 & 9 E.	5th p. m.
	264	30th Nov., 1815..	160	.....	Elvy Dejallais.....	24th Feb'y, 1819 .	W. M. O'Hara and Stephen F. Austin.	1 N.	12 W.	‖5th p. m.
	327	28th Nov., 1815..	640	.....	Andrew Woods.....	4th Feb'y, 1823 ..	James S. Conway.....	18 S.	25 & 26 W.	5th p. m.
	397	12th Aug't, 1818 .	.....	300	Francis Trenchard.....	25th April, 1823..	James S. Conway.....	19 S.	25 W.	4th p. m.
Survey 2927	417	18th Aug't, 1818..	640	.....	Ignace Hunst.....	24th Feb'y, 1823..	George Bently, by William Russell, his agent.	5 N.	16 W.	5th p. m.
Survey 2936	461	12 Nov., 1818	640	.....	Phœbe Dunn	22d March, 1823..	William Russell, agent for Phœbe Dunh's heirs.	2 N.	5 E.	5th p. m.
Survey 2942	468	26 Nov., 1818	160	.....	P. St. Mary	25th April, 1823..	James S. Conway.....	19 S.	26 W.	5th p. m.
Survey 2935	472	Not dated	160	.....	Francis St. Mary	25th April, 1823..	A. H. Evans	19 S.	25 W.	5th p. m.
Survey 2905	477	30th Nov., 1818..	640	.....	Edward Proctor	4th Feb'y, 1823 ..	James S. Conway, agent for Joseph Paxton.	19 S.	25 & 26 W.	5th p. m.
Survey 2931	514	5th Sept., 1816...	.....	320	Augustin Gonzales.....	21st Dec., 1819...	William Russell, agent for Augustin Gonzales & Jno. F. Almendras.	7 N.	8 E.	5th p. m.
Survey 2932	515	5th Sept., 1816...	.....	320	Jno. Frs. Almendras	21st Dec., 1819...				
Survey 2930	467	26th Nov., 1818..	.....	200	Francis Langlois.....	28th Jan'y, 1819..	Samuel Hammond & Elias Rector§..			
Survey 2853	504	.....	640	.....	John Loyed					

* The No. of this survey is in part worn off the original list, and no mention made of it elsewhere. The two last figures remain thus: 01—
† On Big Red River. ‡ South of Ark's River. ‖ South of Ark's River, near Little Rock. § To include the Hot Springs, on the Ouachita River.

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307 SURVEYOR'S OFFICE,
Little Rock, Ark's, 17th December, 1857.

We, the undersigned, hereby certify that the above is a complete and correct copy of the original list of New Madrid claims and locations included in the inventory prepared and signed by E. F. Langham, surveyor of the public land in Illinois and Missouri, the 7th January, 1833, to be transferred with the public records of surveys, &c., to the surveyor of the public land in the Territory of Arkansas. We find the same now on file in this office.

E. BURGEVIN,
Chief Clerk.
WH. RECTOR.
A. S. TRIGG.

I certify that the above is correct.

H. M. RECTOR,
Surveyor-General of Arkansas.

STATE OF ARKANSAS, *ss:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, do certify that the within and foregoing is a full, true, and complete copy of the list of "New Madrid claims," as the same is found upon page 74, "book 1" of the transcript filed in said court in a certain cause therein pending, wherein William H. Gaines and wife are appellants, and John C. Hale and Henry M. Rector are appellees.

In testimony whereof I have hereto set my hand and affixed the seal of said court at Little Rock, this 18th day of August, A. D. 1870.

[SEAL.] N. W. COX, *Clerk.*

(Indorsed:) 6245. United States Court of Claims. No. 6245. Henry M. Rector against the United States. No. 11. A certified list of certificates issued by the recorder of land-titles, under the act of Congress of the 17th of February, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Territory of Missouri, who suffered by earthquakes," which have been located in Arkansas. Filed Dec. 30, 1872. J. R.

List comprising all the New Madrid claims located in the State of Arkansas, with date of location, actual survey, &c., on file in the surveyor's office, at Little Rock, Arkansas.

Names of claimants.	Date of location.	Date of survey or surveys.	Time of return by surveyor-general to the recorder of land-titles.
Andrew Woods	4th February, 1823	June 8th, 1824	Unknown to this office.
Elay Degailais	24th February, 1819	April 19th, 1820	Unknown to this office.
Peter Porier	21st January, 1820	May 1st, 1820	Unknown to this office.
Ignace Hunot	24th February, 1823	January 12th, 1823 August 5th, 1823	Unknown to this office.
Augustin Gonzales	21st December, 1819	June 23d, 1824	Unknown to this office.
Jno. F. Almendras	21st December, 1819	June 23d, 1823	Unknown to this office.
Edward Proctor	4th February, 1823	December 24, 1823	Unknown to this office.
Francis Lessner	30th November, 1819	April 30th, 1820	Unknown to this office.
Francis Trenchard	25th April, 1823	June 7th, 1824	Unknown to this office.
Benjamin Froy	20th March, 1822 11th April, 1823	November 8th, 1832 September 20th, 1833	Unknown to this office.
John Lloyd	29th of May, 1819	July 20th, 1830	Unknown to this office.
John Dorloc	26th February, 1819	October 23d, 1819	Supposed to have been returned according to memorandum May 4th, 1820.
Phebe Dunn	22 March, 1823	January 15, 1824	Unknown to this office.
Andrew Robertson	16th April, 1823	No private survey thereof, but located in confirmity to U. S. surveys.	Unknown to this office.
Henry Cockerham	30th October, 1820	May 2d, 1839	Unknown to this office.
Rich'd J. Waters	26th April, 1819; new location made 14th April, 1823	No private survey thereof, but located in conformity to U. S surveys.	Unknown to this office.
Francis St. Mary	25th April, 1823	No private survey thereof, but located in conformity to U. S. surveys	Unknown to this office.
Benjamin Dement	16th July, 1822	August 20, 1831	Unknown to this office.
P. St. Mary	25th April, 1823	No private survey thereof, but located in conformity to U.S. surveys.	Unknown to this office.
Elizabeth Jones	25th April, 1823	No private survey thereof, but located in conformity to U. S. surveys.	Unknown to this office.
Caty Gallowhorn	21st December, 1819	June 24, 1824 July 16th, 1820	Unknown to this office.
Francis Langlois	27th January, 1819	February 28th, 1828	Unknown to this office.

SURVEYOR'S OFFICE,
Little Rock, Ark's, Dec. 17th, 1857.

We, the undersigned, hereby certify that the foregoing is a correct list of all New Madrid claims located in Arkansas, compiled from the original papers connected with each claim known to and now on file in this office.

E. BURGEVIN, *Chief Clerk.*
WHARTON RECTOR.

I certify that the above is correct in all particulars.

HENRY M. RECTOR,
Survey.-General of Arkansas.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, do hereby certify that the within and foregoing is a full and true copy of "all New Madrid claims located within the State of Arkansas," as the same is found upon page 71, "book 1" of a transcript duly certified by the clerk of Hot Spring County, now on file in said supreme court, wherein William H. Ganes and wife are appellants, and John C. Hale and Henry M. Rector are appellees, and Henry M. Rector is appellant, and John C. Hale appellee, on an appeal from the Hot Spring circuit court, sitting in chancery.

308 In testimony whereof I have hereunto set my hand and the seal of said supreme court at Little Rock, Arkansas, this 18th day of August, A. D. 1870.

[SEAL.] N. W. COX, *Clerk.*

(Indorsed:) United States Court of Claims. No. 6245. No. 12. Henry M. Rector vs. The United States. A certified list comprising all the New Madrid claims located in the State of Arkansas, with date of location, actual survey, &c., on file in the surveyor's office at Little Rock, Arkansas. Filed Dec. 30, 1872. J. R.

Extracts from reply of Interior Department to call of Court of Claims.

GENERAL LAND-OFFICE, *January* 28, 1871.

I, Jos. S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed copies are true and literal exemplifications from the files of this Office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

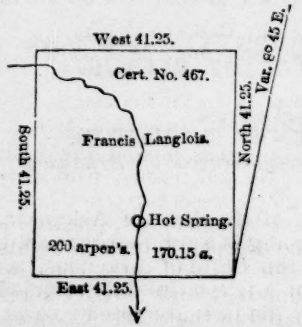
[SEAL.] JOS. S. WILSON,
Commissioner of the General Land-Office.

Gen'l William Rector, surveyor, &c., of the public lands for the State of Illinois & Territory of Missouri:

The undersigned applies for the entry or donation of two hundred arpens of land, to satisfy a certificate issued by Frederick Bates, esq'r., recorder of land-titles for the Territory of Missouri, to Francis Langlois, or his legal representatives, dated the 26th November, 1818, and numbered 467, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points & to include the hot springs (so called) upon the waters of Ouchitau River, south of the Arkansas, the said springs to be as near the centre of the square as circumstances will admit. An order of survey is solicited & directions agreeably to this notice. The springs so to be included are those generally known as the largest and most resorted to upon that river.

ST. LOUIS, 27th Jan., 1819.

S. HAMMOND.
ELIAS RECTOR.



Certificate No. 467.

(Var'n 8° 45′ east.)
Survey No. 2903.

Surveyed for Francis Langlois, or his legal representatives, who claims location by virtue of certificate No. 467, issued by Frederick Bates, recorder of land-titles, on the 26th November, 1818, two hundred arpens,

equal to one hundred and seventy and fifteen-hundredths acres of land, beginning at the main hot spring of Arkansas; thence S. 45° E., on an unmarked line 29.17 chs., where set a post, the southeast corner of said survey, from which a pine 24 in's dia. bears N. 7° E. 40 l'ks, and a pine 16 in's dia. bears N. 67° W. 53 l'ks, each marked P. S. & B. T.; thence north, (with the line of the survey,) at 204 links, a white-oak 13 in's dia., at 41.25 chs. set a post, the northeast corner of said survey, from which a pine 16 in's dia. bears N. 45° E. 15 links, and a black-oak 8 in's dia. bears S. 68° W. 15 links, each marked P. S. & B. T.; thence west at 355 links, a white-oak 24 in's dia., at 41.25 ch's set a post, the northwest corner of said survey, from which a white-oak 16 in's dia. bears N. 10° E. 48 links, and a white-oak 18 in's dia. bears S. 58° E. 56 links, each marked P. S. & B. T.; thence south at 60 links a white-oak, at 12.10 ch's Hot Spring Creek bears east, at 41.25 ch's set a post, the southwest corner of said survey, from which a black-oak 6 in's dia. bears N. 48° E. 21 links and a black-oak 10 in's dia., bears N. 28° W. 50 links; thence east, at 563 links a black-oak 12 in's dia., at 18.87 ch's at Hot Spring Creek bears south at 41.25 ch's, the southeast corner of said survey.

In conformity with instructions from the surveyor-general, I have surveyed the foregoing location or claim in the name of Francis Langlois, so that the main hot spring is in the centre thereof.

28th February, 1838.

JOHN C. HALE, *D. S.*

SURVEYOR'S OFFICE,
Little Rock, 23d April, 1838.

The foregoing writing is a true copy of the location, plat, and survey of two hundred arpens of land, by virtue of certificate No. 467, on file in this office, the survey of which has been examined and approved.

EDW. CROSS,
Sur. Pub. Lands.

To FREDERICK R. CONWAY,
U. S. Recorder of Land-Titles, St. Louis, Missouri.

RECORDER'S OFFICE,
Saint Louis, Missouri, 16th June, 1838.

The foregoing is truly recorded on pages 42 and 43 of book G, of record in this office. The number of survey was obtained by me from the surveyor's office at St. Louis, and inserted.

F. R. CONWAY,
U. S. Recorder of Land-Titles in the State of Missouri.

No. 435.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Missouri, June 16th, 1838.

I certify that, in pursuance of the act of Congress passed the 17th day of February, 1815, a location certificate, No. 467, issued from this office in favor of Francis Langlois, or his legal representatives, for two hundred arpents of land; that a location has been made, as appears by the plat of survey herewith, and that the said Francis Langlois, or his legal representatives, is entitled to a patent for the said tract, containing, according to said location, one hundred and seventy acres
309 and fifteen hundredths of an acre, situated in the State of Arkansas, the township and range not mentioned. Survey No. 2903.

F. R. CONWAY,
U. S. Recorder of L. Titles in the State of Missouri.

308 In testimony whereof I have hereunto set my hand and the seal of said supreme court at Little Rock, Arkansas, this 18th day of August, A. D. 1870.

[SEAL.] N. W. COX, *Clerk.*

(Indorsed:) United States Court of Claims. No. 6245. No. 12. Henry M. Rector vs. The United States. A certified list comprising all the New Madrid claims located in the State of Arkansas, with date of location, actual survey, &c., on file in the surveyor's office at Little Rock, Arkansas. Filed Dec. 30, 1872. J. R.

Extracts from reply of Interior Department to call of Court of Claims.

GENERAL LAND-OFFICE, *January* 28, 1871.

I, Jos. S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed copies are true and literal exemplifications from the files of this Office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

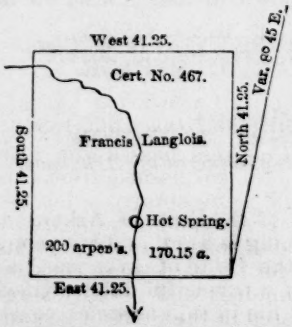
[SEAL.] JOS. S. WILSON,
Commissioner of the General Land-Office.

Gen'l William Rector, surveyor, &c., of the public lands for the State of Illinois & Territory of Missouri:

The undersigned applies for the entry or donation of two hundred arpens of land, to satisfy a certificate issued by Frederick Bates, esq'r., recorder of land-titles for the Territory of Missouri, to Francis Langlois, or his legal representatives, dated the 26th November, 1818, and numbered 467, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points & to include the hot springs (so called) upon the waters of Ouchitau River, south of the Arkansas, the said springs to be as near the centre of the square as circumstances will admit. An order of survey is solicited & directions agreeably to this notice. The springs so to be included are those generally known as the largest and most resorted to upon that river.

ST. LOUIS, 27th Jan., 1819.

S. HAMMOND.
ELIAS RECTOR.



Certificate No. 467.

(Var'n 8° 45′ east.)
Survey No. 2903.

Surveyed for Francis Langlois, or his legal representatives, who claims location by virtue of certificate No. 467, issued by Frederick Bates, recorder of land-titles, on the 26th November, 1818, two hundred arpens,

equal to one hundred and seventy and fifteen-hundredths acres of land, beginning at the main hot spring of Arkansas; thence S. 45° E., on an unmarked line 29.17 chs., where set a post, the southeast corner of said survey, from which a pine 24 in's dia. bears N. 7° E. 40 l'ks, and a pine 16 in's dia. bears N. 67° W. 53 l'ks, each marked P. S. & B. T.; thence north, (with the line of the survey,) at 204 links, a white-oak 13 in's dia., at 41.25 chs. set a post, the northeast corner of said survey, from which a pine 16 in's dia. bears N. 45° E. 15 links, and a black-oak 8 in's dia. bears S. 68° W. 15 links, each marked P. S. & B. T.; thence west at 355 links, a white-oak 24 in's dia., at 41.25 ch's set a post, the northwest corner of said survey, from which a white-oak 16 in's dia. bears N. 10° E. 48 links, and a white-oak 18 in's dia. bears S. 58° E. 56 links, each marked P. S. & B. T.; thence south at 60 links a white-oak, at 12.10 ch's Hot Spring Creek bears east, at 41.25 ch's set a post, the southwest corner of said survey, from which a black-oak 6 in's dia. bears N. 48° E. 21 links and a black-oak 10 in's dia., bears N. 28° W. 50 links; thence east, at 563 links a black-oak 12 in's dia., at 18.87 ch's at Hot Spring Creek bears south at 41.25 ch's, the southeast corner of said survey.

In conformity with instructions from the surveyor-general, I have surveyed the foregoing location or claim in the name of Francis Langlois, so that the main hot spring is in the centre thereof.

28th February, 1838.

JOHN C. HALE, *D. S.*

SURVEYOR'S OFFICE,
Little Rock, 23d April, 1838.

The foregoing writing is a true copy of the location, plat, and survey of two hundred arpens of land, by virtue of certificate No. 467, on file in this office, the survey of which has been examined and approved.

EDW. CROSS,
Sur. Pub. Lands.

To FREDERICK R. CONWAY,
U. S. Recorder of Land-Titles, St. Louis, Missouri.

RECORDER'S OFFICE,
Saint Louis, Missouri, 16th June, 1838.

The foregoing is truly recorded on pages 42 and 43 of book G, of record in this office. The number of survey was obtained by me from the surveyor's office at St. Louis, and inserted.

F. R. CONWAY,
U. S. Recorder of Land-Titles in the State of Missouri.

No. 435.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Missouri, June 16th, 1838.

I certify that, in pursuance of the act of Congress passed the 17th day of February, 1815, a location certificate, No. 467, issued from this office in favor of Francis Langlois, or his legal representatives, for two hundred arpents of land; that a location has been made, as appears by the plat of survey herewith, and that the said Francis Langlois, or his legal representatives, is entitled to a patent for the said tract, containing, according to said location, one hundred and seventy acres
309 and fifteen hundredths of an acre, situated in the State of Arkansas, the township and range not mentioned. Survey No. 2903.

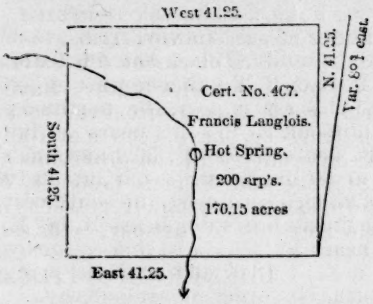
F. R. CONWAY,
U. S. Recorder of L. Titles in the State of Missouri.

To the COMMISS'R OF THE GEN'L LAND-OFFICE,
City of Washington.

(Indorsed:) 6208. Hot Springs cases. Certified copies from files of Land-Office. Filed Feb'y 17, 1871. No. 1.

Certificate No. 467.

(Var'n 8° 45′ east.)



Surveyed for Francis Langlois, or his legal representatives, who claims location by virtue of certificate No. 467, issued by Frederick Bates, recorder of land-titles, on the 26th November, 1818, two hundred arpens, equal to one hundred and seventy and fifteen-hundredths acres of land, beginning at the main hot spring of Arkansas; thence S. 45° E., on an unmarked line, 29.17 chains, where set a post the southeast corner of said survey, from which a pine 24 in's dia. bears N. 7° E. 40 links, & a pine 16 in's dia. bears N. 67 W. 53 l'ks, each marked P. S. & B. T.; thence north, with the line of the survey, at 204 links, a white-oak 13 in's dia., at 41.25 ch's set a post, the northeast corner of said survey, from which a pine 16 in's dia., bears N. 45 E. 14 links, and a black-oak 8 in's dia. bears S. 68 W. 15 links, each marked P. S. & B. T.; thence west, at 355 links, a white-oak 24 in's dia., at 41.25 ch's set a post the northwest corner of said survey, from which a white-oak 16 in's dia. bears N. 10 E. 48 links, and a white-oak 18 in's dia. bears S. 58 E. 56 links, each marked P. S. & B. T.; thence south, at 60 links a white-oak, at 12.10 ch's Hot Spring Creek bears east, at 41.25 ch's set a post, the S. W. corner of said survey, from which a black-oak 6 in's dia. bears N. 48 E. 21 links, and a black-oak 10 in's dia. bears N. 28 W. 50 links; thence east, at 563 links a black-oak 12 in's dia., at 18.87 ch's Hot Spring Creek bears south, at 41.25 chains, the southeast corner of said survey.

In conformity with instructions from the surveyor-general, I have surveyed the foregoing location or claim in the name of Francis Langlois, so that the main hot spring is in the centre thereof.

JOHN C. HALE, *D. S.*

28TH FEBRUARY, 1836.

Gen'l William Rector, surveyor of the public lands for the State of Illinois & Territory of Missouri:

The undersigned applies for the entry or location of two hundred arpens of land, to satisfy a certificate issued by Frederick Bates, recorder of land-titles for the Territory of Missouri, to Francis Langlois, or his legal representatives, dated the 26th November, 1818, numbered four hundred and sixty-seven, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, & to include the Hot Springs (so called) upon the waters of Ouchita River south of the River Arkansas, the said spring to be as near the centre of the square as circumstances will admit. An order of survey is solicited and directions agreeably to this notice. The springs to be

included are those generally known as the largest and most resorted to upon that river.

S. HAMMOND.
ELIAS RECTOR.

ST. LOUIS, *26th Jan'y*, 1819.

No. 467.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Nov. 26, 1818.

I certify that a tract of two hundred arpens of land, situate Bayou St. John, in the county of New Madrid, which appears from the books of this office to be owned by "Francis Langlois," have been materially injured by earthquakes; and that, in conformity with the provisions of the act of Congress of 17th Feb'y, 1815, the said Francis Langlois, or his legal representatives, is entitled to locate two hundred arpens of land on any of the public lands of the Territory of Missouri "the sale of which is authorized by law."

FREDERICK BATES.

Com. Reg., vol. 5, p. 88.

MISSOURI TERRITORY,
County of St. Louis:

I do hereby assign, transfer, & set over all my right, title, claim, and interest, for myself and as attorney in fact for Francis Langlois, to or in the within certificate, and all the benefits and rights to be secured therefrom, to Samuel Hammond, his heirs & assigns, for and in consideration of the sum of six hundred and forty dollars, which sum I have received from the said Hammond in full consideration for the premises aforesaid. Witness my hand this 4th Jan'y, 1818.

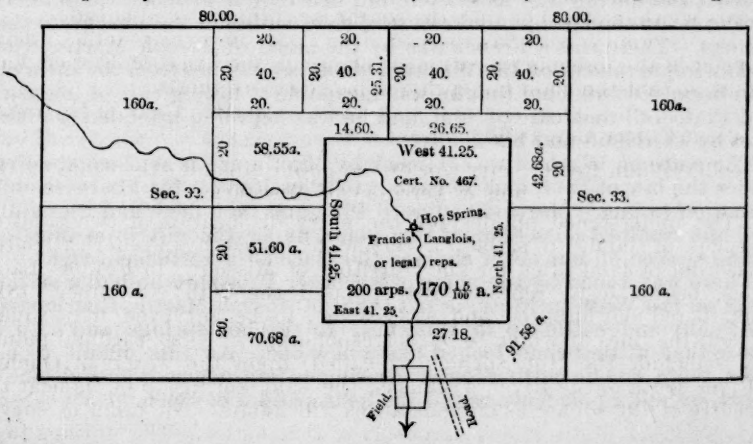
JOSH. STORY,
Attorney in Fact for Francis Langlois.

SURVEYOR-GENERAL'S OFFICE,
Little Rock, Ark's, 27th June, 1838.

I certify that the foregoing survey, application for survey, certificate, diagram, &c., are correct copies of the original, of record in my office.

E. D. W. CROSS,
Sur. Pub. Lands.

310 *A plan of sections* 32 & 33 *T.* 2 *S., R.* 19 *W., embracing Hot Spring.*



(Indorsed:) New Madrid location at Hot Springs. Copy from surveyor-gen'l's office. G. L. O. Rec'd on 29th Dec., 1838, at this office with copy of proof in the case of the heirs of Jno. Percifull, certified by R. & R. at Washington, 27 Sept., 1838. Doc. No. 6.

The statement of Sarah Piercifull, made on oath in the house of Samuel P. Carson, in the town of Hot Spring, in the county of Hot Spring, State of Arkansas, on the 2nd day of June, 1838:

This affiant states that, on the 5th of May, 1814, she reached the hot springs, in company with her uncle and others, and her uncle rented a cabin and a small piece of ground from John Piercifull, who was then in possession of and claiming the springs, and all the houses, clearings, and improvements claimed by John Piercifull were on the same quarter-section with the hot springs, and near to the springs.

Affiant states that there was a number, probably thirty, of cabins and shelters around the springs, and between an acre and an acre and a half of land cleared, all claimed by John Piercifull, and, as far as this affiant knows, was claimed by no one else at that time.

The clearing was under fence, and the fence was an old one, and not a new rail on it, as I saw and recollect, and in a condition then to be sowed or planted, and a part of it my uncle rented for a garden. The place—that is, the clearing—looked as if it had been cleared for some time and been in cultivation for several years prior to that time.

At that time, viz, 5th of May, 1814, and a few days after, there were old corn-stalks on the portion rented by affiant's uncle, and squash-vines and cabbage-stalks and pea-stalks, and affiant understood from many persons at the springs that the clearings spoken of had been in cultivation for several years before by Piercefull and others living in his cabins & to whom he had rented. Piercefull was in possession, claiming to be, and understood by all to be, the sole proprietor, and every one that come to the springs rented of him. In the summer of 1814 there was a family by the name of Foster, who stated that they had been at the same place in the summer of 1813, and that they had rented a part of the same clearing from Piercefull, and raised vegetables on it.

In January, 1815, affiant was married to John Piercefull, and they have been in possession of the springs ever since. At one time they went to Red River, and remained about nine or ten months. This was in 1819, but during that time Piercifull had rented as usual to persons who came to the springs, and returned once while she was absent, to the springs. There was a Frenchman by the name of Joseph Martin who had an improvement on the Washita, about seven miles from the springs, who became so afflicted that he was incapable of taking care of himself, and Piercefull took care of him, and he was kept and attended to after that by Piercefull and his family.

The place on Washita was claimed by Martin as his settlement-right under the law of 1814, and he gave it to Piercifull for his kindness and attention to him. Martin lived until 1819, and then died, and Piercifull had and retained possession of that place, under the gift from Martin, before spoken of, but never claimed the place as a settlement-right.

There was a man by the name of Ebenezer Falsome who had a settlement on the Washita River, near to that of Joseph Martin, that moved his family and cattle up in 1814, near to the hot springs, and into a house that, at that time, looked like a new one. As this affiant recollects, there was no cultivation or clearing or improvement on Falsome's place, except a pole-fence round the house, and a cow-pen.

In 1815 this affiant thinks Falsome got a man by the name of Lovelass to run off his settlement-right at his place on the river and claimed it under the pre-emption law of 1814, and never, as far as this affiant knows, in his life-time made claim to the springs by virtue of the house & improvements before spoken of, but that house was made to bring his family up, for the use of the water, and give his cattle the benefit of the summer range.

Piercefull came to the springs in 1809, as he told this affiant before they were married, and commenced his improvements, and he made many persons build these houses for the use of the water and board.

John Piercefull died the 26th July, 1835, and has but one child, David Pierciful, who is his only heir, and this affiant is his widow.

The possession of the springs has never been relinquished, but has continued in S. Piercifull and this affiant, from 1814, as this affiant knows of her own personal knowledge, up to this date, the 2nd June, 1838, without interruption.

And further this deponent saith not.

her
SARAH + PIERCIFULL.
mark.

Sworn to before me and subscribed in my presence by Mrs. Sarah Piercifull, to me personally well known, at the Hot Springs, in Hot Spring County, in the State of Arkansas, this 2d day of June, A. D. 1838.

DANIEL RINGO,
Chief Justice of the Supreme Court of the State of Arkansas.

The statement of Warren Dunham, made at the same time and place, and on oath.

Affiant reached the Hot Springs on the 18th of June, 1814, and found between twenty and thirty cabins erected about the springs, and
311 about an acre and a half of land cleared and under fence, and had the appearance of having been cultivated several years before; and a man by the name of John Gibbons told affiant that he had rented a part of it for two years before from John Piercefull, and cultivated it when affiant reached the springs. The clearing was under cultivation, principally in corn, beans, and cucumbers, and they were growing finely.

John Piercifull claimed to be the proprietor of the place, and all that come got in by his consent and rented of him; and no other person at that day, that this affiant ever heard of, set up a claim to the springs, and the possession has continued in him and his widow up to this time, as this affiant believes. Mrs. Piercifull, the widow of John Piercifull, was at the springs when this affiant reached here, in 1814.

Ebenezer Fulsome lived on the Washita River. His clearing and cultivation and permanent residence in 1814 *was* at that place, and he told affiant he claimed that under the law of 1814, and he asked affiant that if he had it surveyed *if* it would not be good evidence of his settlement-right, and entitle him to the whole quarter-section, and he had the survey made and a plot taken, which this affiant saw in 1822 or '3.

This affiant always understood from him that he claimed the place on Washita by virtue of his settlement and improvement, and no other, and he was fearful, without he had a survey & plot, that he might not hold

all of that. Affiant lived with him in the winter of 1814–'15 at his place on the Washita, and he had the survey made that winter. He had ten or fifteen acres cleared and under fence, and they looked as if they had been cultivated for several years. Fulsome was killed in 1817, and his widow and family have remained in possession of that place ever since.

Fulsome had a small house near the springs, and on the 4th of July, 1814, when this affiant was at the house, there was no clearing and no appearance of cultivation. This affiant is certain that he saw not a hill or a stalk of any vegetable growing, and they left in August, and Fulsome told affiant that he built the house and moved up here in the summer for the benefit of the stock range and to sell his butter & milk and beef at the springs, but certainly claimed no right or ever disputed Piercefull's.

WARREN DUNHAM.

Sworn to before me, and subscribed in my presence by Warren Dunham, to me personally well known, at the Hot Spring', in Hot Spring County, in the State of Arkansas, this second day of June, A. D. 1838.

DANIEL RINGO,
Chief-Justice of the Supreme Court of the State of Arkansas.

Additional testimony of Warren Dunham, July 2nd, 1838.

STATE OF ARKANSAS,
County of Hot Spring :

Be it remembered that on the 2nd day of July, in the year of our Lord eighteen hundred and thirty-eight, Warren Dunham personally came before me, the undersigned, a justice of the peace within and for the said county of Hot Spring, in the State aforesaid, and, being by me first duly sworn, deposeth and sayeth that the deposition made by him, the said Dunham, on the 2nd day of June ult., before Daniel Ringo, chief-justice of the supreme court of the State of Arkansas, with regard to the pre emption right of the widow & son and only heirs of John Piercifull, dec'd, to the quarter-section of land which includes the "hot springs," is true; and said Dunham further swears that the said springs *in* included in the southwest quarter of section thirty-three, in township two south of the base-line, in range nineteen west of the fifth principal meridian.

This affiant further states that in the year 1828 John Piercifull, dec'd, leased the said hot springs & improvements to one Lodivicus Beldon, for the term of five years, who remained in the possession of said property for two years, or thereabouts, & then sold his lease to one Asa Thompson. He, Thompson, remained in possession for one year, or near that time, and then sold the lease for the remaining two years to Richard C. Hawkins, who delivered over the possession to Piercifull at the expiration of the time. There was a garden cultivated by Piercifull, about half of which is on the quarter-section before described, and was cultivated for many years in vegetables of various kinds, a corn-patch for roasting-ears, &c. The said garden was cultivated by Beldon in the years 1828 & 1829, & afterwards by Thompson & Hawkins. This deposition is annexed by wafers to the before-mentioned deposition, made before Daniel Ringo, chief-justice, in presence of the subscribing justice of the peace & in presence of the clerk of the superior court for said county. Affiant also states that Beldon cultivated, in the years 1828 & 1829, a garden near the houses, & which is entirely

included in the quarter-section described. Affiant also states that he knows the principal facts set forth in the deposition of Sarah Piercifull in the premises aforesaid to be substantially true.

WARREN DUNHAM.

Sworn to before me & subscribed in my presence by Warren Dunham, to me personally well known, at the Hot Springs, in Hot Spring County, in the State of Arkansas, this 2nd day of July, A. D. 1838.

S. A. EMERSON, *J. P.*

I, S. A. Emerson, the subscribing justice of the peace for the county & State aforesaid, do certify that I have been acquainted with Warren Dunham, the subscribing witness to the foregoing deposition, for some years, & that the said Dunham has filled the office of county judge for some years past, and bears an unblemished character for truth & honesty, and is entitled to full faith & credit on oath. Date above written.

S. A. EMERSON, *J. P.*

Additional testimony of Sarah Piercifull, July 2nd, 1838.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that on the 2d day of July, in the year of our Lord one thousand eight hundred & thirty-eight, Sarah Piercifull personally came before me, the undersigned, a justice of the peace in & for the county of Hot Spring, & State aforesaid, and, being by me first duly sworn, deposeth and sayeth that, in addition to the deposition made by her, the said Sarah, before Daniel Ringo, chief-justice of said State, on the 2d day of June ultimo, in the case of a pre-emption right having been claimed by her late husband, John Piercifull, dec'd, & which claim includes the Hot Springs, deposeth and sayeth that she is unlearned, & has no knowledge of letters or figures, & therefore cannot say of her own knowledge anything about sectional, township, or other lines. But, from what she was told by the deputy surveyor, (Mr. Hall,) who surveyed the township, or the part on which she lives, and also from what she has been told by others who understand, she believes the quarter-section which contains & includes the Hot Springs to be
312 the southwest quarter of section thirty-three (33) of township two south of the base line, in range nineteen (19) west of the fifth (5th) principal meridian. Affiant further states that one Lodovico Beldon leased said springs & improvements from her husband, John Piercifull, in the year 1828, for the term of five years, & that said Beldon lived on the said quarter-section, which includes the springs, & cultivated a garden, which had for many years before been cultivated by Piercifull, or his lessees, about one-half of which clearing is on the quarter-section which includes the hot springs, as above described, for two years, to wit, the years 1828 & 1829. And the said Beldon also cultivated a garden attached or near to the houses he occupied, all of which garden is included in the quarter-section before described. The before-mentioned gardens were cultivated in various vegetables & some corn in both the years which Beldon resided at the springs, to wit, in the years eighteen hundred and twenty-eight and eighteen hundred and twenty-nine, (1828 & 1829.) Affiant further states that in the latter year, (1829,) or thereabouts, he, Beldon, sold his lease to one Asa Thompson. Said Thompson occupied said springs for one year & sold out to Richard C. Hawkins, who kept the springs the remaining two years, & then delivered the possession

over to Piercifull. Piercifull shortly afterwards sold half his interest to said pre-emption to James Conway, esq., now governor of this State, and the springs were leased to or put in the possession of Samuel Rayburn, brother in-law of said Conway. And since the death of my husband I purchased the right of Governor Conway, which had been conveyed to him by my husband, & he conveyed to me by deed. All of which is matter of record in the office of the clerk of the court for Hot Spring County, & State aforesaid, & the possession was restored to her, & the said Sarah, & her son David, to her in right of the half sold by her husband & reconveyed to her by Conway, and to her son in his own right, as only heir to the remaining half. And which possession I, the said Sarah, have held in person ever since.

her
SARAH + PIERCIFULL.
mark.

Sworn to and subscribed in my presence by Sarah Piercifull, to me well known, & who is entitled to full faith and credit on oath, at the Hot Springs & State aforesaid, on the 2nd day of July, A. D. 1838.

S. A. EMERSON, *J. P.*

Deposition of David Piercifull.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that on the 2d day of July, in the year of our Lord one thousand eight hundred and thirty-eight, (1838,) David Piercifull personally came before me, the undersigned, justice of the peace in and for the county of Hot Spring & State aforesaid, &, first being duly sworn by me, deposeth and sayeth:

That he is the son & only surviving child of John Piercifull, dec'd, (as he is advised & believes,) & of Sarah Piercifull, widow of said John, dec'd; that he, (David,) according to the family record, was born on the eleventh day of December, 1815; that since his first recollection his father, the said John Piercifull, dec'd, claimed the Hot Springs under a pre-emption right, having been, as he stated to this affiant, the first person who made improvements with the intention of claiming them by virtue of a settler's right. And said affiant further states that he never heard of any other claim until some time in the year 1820. He has understood that James Conway, now governor of the State, run out a tract of land, including the springs, called a "New Madrid claim." The statements of Sarah Piercifull, his mother, and Warren Dunham, esqr., who have testified in this case, affiant states to be true, to the best of his belief & knowledge, all at least which have occurred since his recollection.

Affiant further states that the quarter-section of land which includes the Hot Springs, and for which *him* and his mother now make application in right of John Piercifull, dec'd, is the southwest quarter of section thirty-three of township two south of the base-line, in range nineteen west of the fifth principal meridian. And further this deponent sayeth not.

DAVID PIERCIFULL.

Sworn to and subscribed in my presence by David Piercifull, to me well known, & entitled to full faith & credit on oath, at the Hot Springs, State aforesaid, on this 2d day of July, 1838.

S. A. EMERSON, *J. P.*

July term of county court, A. D. 1838.

STATE OF ARKANSAS,
County of Hot Spring:

I, Ira A. Sabin, clerk of the circuit court, and ex-officio recorder for the county of Hot Spring, in the State aforesaid, do hereby certify that S. A. Emerson, the subscribing justice of the peace to the foregoing affidavits or additional testimony of Warren Dunham and Sarah Piercifull, and also to the original deposition of David Piercifull. all of which testimony in favor of the pre-emption right of John Piercifull, deceased, to the quarter-section of land therein described, and which includes the hot springs, and which is hereunto annexed by thread and wafers, is an acting justice of the peace in and for said county of Hot Spring and State of Arkansas, and that all his official acts, as such, are *all* entitled to respect, faith, and credit. Given under my hand and seal of office this 2nd day of July, A. D. 1838.

[SEAL.] IRA A. SABIN, *Clerk.*

July term of county court, 1838.

STATE OF ARKANSAS,
County of Hot Spring:

I, Granville Whittington, judge in and for the county court of Hot Spring County, now in session, do certify that Ira A. Sabin, whose official signature and seal of office accompanies the foregoing deposition, as stated in his certificate, is the clerk of said court, in and for said county, and that all his official acts are entitled to full faith and credit.

Given under my hand and seal in term-time, July second, A. D. 1838.

G. WHITTINGTON, [SEAL.]
Judge of the County Court.

313 STATE OF ARKANSAS,
County of Hot Spring:

I, Ira A. Sabin, clerk of the circuit court in and for the county of Hot Spring, county and State aforesaid, do hereby certify that Granville Whittington, whose signature is placed to the above certificate, is at this time the legal judge of the county court of Hot Spring County in the State aforesaid.

In testimony whereof I have hereunto set my hand and affixed the seal of my office, this 2nd day of July, A. D. 1838, and of our Independence the sixty-second year.

[SEAL.] IRA A. SABIN, *Clerk.*

STATE OF ARKANSAS,
County of Pulaski, sct:

Richard C. Hawkins, being first duly sworn, states, on oath, that in the year 1828 Ludovicus Belding leased the Hot Springs, in Hot Spring County, Ark's, from John Purcifull, and took possession of them the same year for five years. In the early part of the year 1830, Asa Thompson took possession of the springs, under Belding's lease, for the residue of his term. And on or about the 21st of August of the same year, (1830,) this affiant bought out the lease from the said Thompson for the last two years of the said lease, commencing on the 1st January, 1831, and ending the first of January, 1833, on which day, to wit, the 21st of August, or thereabout, the said John Piercifull, Belding, Thompson, and this affiant met together, and by consent and agreement of

each of them, and in the presence of all of them, the lease of Piercifull to Belding and the sublease from Belding to Thompson for the residue of his term of five years as aforesaid were cancelled and surrendered up; and this affiant became the lessee of the said Piercifull and executed his obligations to him for the same for the two remaining years of the term aforesaid, and delivered possession of the same to the said Piercifull in pursuance thereof.

This affiant has been acquainted with the affairs at the springs since May, 1829, and the right to the springs, of whatever character it may have been, was recognized by all the tenants to be in the said Piercifull; and in the year' 1829, 1830, 1831, & '2, from a half acre to an acre of land near to the springs, and on the same quarter-section, as this affiant is informed and believes, was in cultivation as a garden and truck-patch, in which were raised corn, peas, beans, potatoes, cabbage, &c. And the said affiant states that in the year eighteen hundred and twenty-nine the said Belding was in possession and cultivated said ground as aforesaid under the said lease from said Piercifull, and in the year 1830, and up to the first of January, 1831, the said Thompson was in possession of the said place under the lease aforesaid. And further this affiant sayeth not.

RICHARD C. HAWKINS.

ARKANSAS, STATE OF,
Pulaski, County of, sct:

This day the within-named Richard C. Hawkins appeared before me, a justice of the peace in and for the county aforesaid, and made oath, according to law, to the foregoing affidavit, and signed and acknowledged the same in my presence, in Little Rock, 22nd June, 1838.

JOHN HUTT, *J. P. P. C.*

The statement of Silas Dodd, made at the office of Jessee Brown, esqr., in the town of Little Rock, Pulaski County, Ark's, on the 6th June, 1838, on oath.

This affiant states that in 1812, and he thinks in the month of June, he was at the hot springs in Arkansas, and that John Piercifull, dec'd, was in the possession of them. There were several cabins around the springs, and about an acre cleared, fenced round, and in cultivation, in peas', beans, pumpkins, and other truck, and affiant understood from Piercifull, and every one there, that it was Piercifull's.

Affiant states that he understood, and from all the information he had at the time, viz, 1812, he verily believes, the place and improvement belonged or was claimed by John Piercifull, dec'd, and that was the belief and statement of every one at the springs with whom he spoke on the subject, and it was frequently the subject of conversation, and he never heard of any other claim at the time.

Affiant has been long acquainted with Warren Dunham and Mrs. Sarah Piercifull, widow of John Piercifull, dec'd, and states that any facts stated by them on oath are entitled to the greatest credit, and their characters for veracity and truth never has been impeached, so far as this affiant knows or believes.

SILAS DOD.

Subscribed and sworn to before me, Jesse Brown, mayor of the city of Little Rock, and justice of the peace, by the said Silas Dod, according to law.

Given under my hand this 6th day of June, 1838.

J. BROWN, *Mayor.*

LAND-OFFICE, WASHINGTON, ARK.,
27th September, 1838.

We, the undersigned, register & receiver as aforesaid, certify that the foregoing is a true copy of the original depositions now on file in this office.

D. T. WITTER, *Rec'r.*
GEO. CONWAY, *Reg'r.*

LAND-OFFICE, WASHINGTON, ARKANSAS,
27th September, 1838.

This claim is rejected, it appearing from the official plat on file in the register's office that a portion of the land herein described, and the part sought to be entered by claimants, having been located by New Madrid certificate No. 467, in the name of Francis Langlois, or his legal representatives, for two hundred arpens.

GEO. CONWAY, *Register.*
D. T. WITTER, *Rec'v'r.*

See letter to R. & R., 20 April, 1839.

(Indorsed:) No. 113, G. L. O. Received from R. & R., Washington, Ark., on the 29th Dec'r, 1838; no letter accompanied the same from said R. & R. Certified copy sent to clk. c't, Aug't 7, 1855. Doc. No. 6.

Certificate of Comm'r G. L. O., showing date of first public surveys in Missouri and Ark.

314 DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
January 29th, 1873.

I hereby certify that, according to the official evidences of the public surveys in the States of Missouri and Arkansas on file in this Office, the survey of the fifth principal meridian, from which the surveys in said States were projected, was commenced on the 27th October, 1815, and completed as far as the Missouri River on the 28th December, same year.

I further certify that the earliest subdivisional surveys in said States were made in the year 1816.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this Office to be affixed at the city of Washington on the day and year above written.

[SEAL.] WILLIS DRUMMOND,
Commissioner of the General Land-Office.

(Indorsed:) 6245. United States Court of Claims. Henry M. Rector against the United States. No. 6245. Certificate of the Commissioner of General Land-Office, showing date of first public surveys in Missouri and Arkansas. Filed Feb. 4, 1873. J. R.

Release to the United States of the lands of Francis Langlois.

Supreme Court of the United States. December term, 1872.

WILLIAM H. GAINES, MARIA GAINES, ALBERT Belding, Henry Belding, George Belding, and John Wassell, assignee in bankruptcy of William H. Gaines, plaintiffs in error,
vs.
JOHN C. HALE AND HENRY M. RECTOR. } No. 117.

Extract from record.

Ex. L. & M.

GENERAL LAND-OFFICE, *April* 28, 1860.

I, Joseph S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed papers are true and literal exemplifications of the original on file in this Office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JO. S. WILSON,
Commissioner of the General Land-Office.

The following is a copy of an entry found in the book containing a schedule of "New Madrid location," on file in the General Land-Office:

I certify that, in all cases where the surveys for New Madrid locations are dated subsequent to the 26th of April, 1823, the locations were made prior to that date.

WM. RECTOR,
Surveyor of Ill., Missouri, & Arkansas.

Know all men by these presents that I, Joseph Storey, of the county of New Madrid & Territory of Missouri, do hereby remise, release, and transfer unto the United States of America all my right and title and interest that I have or ever had unto the following tracts of land and lots in the county of New Madrid, confirmed to the several person' hereafter mentioned by the late board of commissioners of land-claims for the aforesaid Territory, viz: A lot in the town of New Madrid, confirmed to Por Peter St. Mary, deceased, and conveyed to me by Tousaint St. Mary and Henry St. Mary, the only heirs & legal representatives of said Peter St. Mary, deceased; also two hundred and fifty arpents of land on Lake St. Anne, confirmed to Joseph St. Mary, deceased, and conveyed to me by Francis Miller, Tousaint St. Mary, and Henry St. Mary, the only heirs and legal represen atives of said Joseph St. Mary, deceased; one town-lot in the town of New Madrid, confirmed to Nicholas St. John, which I transfer by virtue of the power of attorney to me from said Nicholas St. John; a tract of two hundred arpents of land, confirmed to Francis Langlois, Pungo St. John, which I transfer also by virtue of a power of attorney to me from said Francis Langlois; also a town-lot in the town of New Madrid, confirmed to Francis Langlois, which I also transfer by virtue of a power of attorney from said Francis Langlois to me.

In witness whereof I have hereunto set my hand and seal, at St. Louis, this 27 day November, anno Domini 1818.

JOSEPH STORY. [SEAL.]

Signed, sealed, and delivered in presence of—
F. M. GUYAL.
THOMAS J. HARSLEY.

TERRITORY OF MISSOURI,
County of St Louis, ss:

Be it remembered that, on the 28th day of November, one thousand eight hundred and eighteen, before me, the subscriber, one of the justices of the peace in and for the aforesaid county, personally appeared Joseph Storey, who acknowledged this instrument in writing to be his act, deed, hand, and seal for the purposes therein contained.

In testimony whereof I have hereunto set my hand and seal, at St. Louis, the day, month, and year above written.

F. M. GUYAL, *J. P.* [SEAL.]

(Endorsed:) Exhibit L. & M., No. 1. Filed March 14th, 1866, as of 20th January, 1860. Hugh McCullum, clerk.

I, D. W. Middleton, clerk of the Supreme Court of the United States, do hereby certify that the foregoing four manuscript pages contain a true extract from the record in the case of William H. Gaines et al., plaintiffs in error, vs. John C. Hale & al., No. 117, December term, 1872, as the same remain upon the official files and records of the said Supreme Court.

In testimony whereof I hereunto subscribe my name and affix the seal of the said Supreme Court, at the city of Washington, on this 8th day of February, A. D. 1873.

[SEAL.]

D. W. MIDDLETON,
Clerk Supreme Court United States.

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. the United States. Certified copy of the release to the United States of the lands of Francis Langloise, injured by earthquakes. Filed Feb. 8, 1873. J. R.

315 *Copy of paper signed James S. Conway, July* 16, 1820.

GENERAL LAND-OFFICE, *January* 28, 1871.

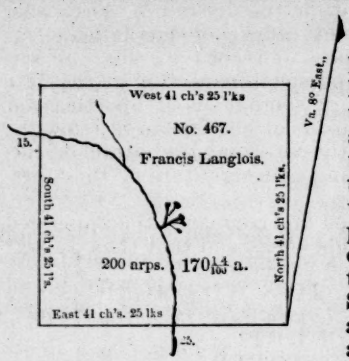
I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify, that the annexed copies are true and literal exemplifications from the files of this Office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land-Office.

Survey No. 2903. Certificate No. 467.



Surveyed for Francis Langlois, or his legal representatives, 200 arpens of land, located by virtue of a New-Madrid certificate, beginning at a post, from which a pine, 10 inches in diameter, (marked thus, H. & R.,) bears S. 47° E., 8 links; thence south 2 ch's, a creek, 15 links wide, runs east; at 41 ch's 25 l'ks, set a post, from which a pine, 15 inches in diameter, bears N. 42½° E., 23 links; thence east 19 ch's, 25 l'ks, to Hot Spring Creek, 25 l'ks wide, runs south; at 41 ch's 25 l'ks, set a post, from which a P. oak, 10 inches in diameter, bears S. 84° E., 6 links; thence north at 41 ch's 25 l'ks, set a post, from which a red oak, 6 inches in diameter, bears S. 62° W., 16 links; thence west 41 ch's & 25 links, to the beginning.

July 16th, 1820.

JAMES S. CONWAY, *D. Surveyor.*

STATE OF MISSOURI, *County of S. Louis:*

Frederick R. Conway, being first duly sworn, deposes and says that the plat and survey hereto attached, of the Langlois New-Madrid claim, located on the hot springs in Arkansas, is signed in the handwriting of the late James S. Conway:

And that he believes that the *patt* is one of *of* the triplicates made out by his brother and returned to the surveyor's office in 1820.

That has acted as surveyor-general and recorder of land-titles in Missouri; and, that by the practise of those offices, when a survey was made and approved by the surveyor-gen'l, the location became valid; the recorder subsequently issuing the pattent-certificate, whenever the surveyor-gen'l returned the papers to his office; but the returns of the surveyor to the recorder *was* not, in point of *title*, considered as materially affecting the validity of the claim. Many of the pattent-certificates to these claims *was* issued subsequent to the time prescribed for the location of such claims by the act of 1822, & they were not objected to on these account', that I ever heard of, at the Departments at Washington.

F. R. CONWAY.

MISSOURI DISTRICT, *sct*:

I, Benjamin F. Hickman, clerk of the circuit court of the United States for the district of Missouri, do hereby certify that the foregoing affidavit was subscribed and sworn to before me by F. R. Conway, on this 3d day of October, 1855.

{ SEAL OF THE UNITED STATES CIRCUIT COURT MISSOURI DISTRICT. } In testimony whereof I hereunto subscribe my name and affix the seal of said court at office, in the city of St. Louis, the date above written.

BEN. F. HICKMAN, *Clk.*

STATE OF ARKANSAS,
County of Pulaski:

The undersigned, now employed as clerks or assistants in the office of

the surveyor-general at Little Rock, state that the late Governor James S. Conway having been surveyor-general for the district of Arkansas, and as such surveyor-general, and as deputy surveyor, has left his signature and handwriting in many instances of record in this, the surveyor's office, at Little Rock, and from a personal inspection at the date hereof, and long familiarity on the part of some of us of his (the said Conway's) handwriting and signature, we do not hesitate to say that the handwriting and signature exhibited on the foregoing and attached survey of the hot springs, is the handwriting and signature of the aforesaid James S.

And we also state that we have examined and compared the appended paper with the duplicate now on file in this office, and that they appear to be identical in handwriting, design, and execution.

IGNATIUS. WILUMONICZ,
Clerk in Sur. Office from 1840.
JOHN HUTT.
C. LANGTREE,
Clerk in Sur's' Office since 1839.
I. H. CREASE.
JNO. M. HARRELL.
WM. H. CAUSIN.

Sworn to and subscribed before me this 11th June, 1855.
JAMES A. HUTCHINGS, *J. P.*

STATE OF ARKANSAS:

I, Elias N. Conway, governor of the State of Arkansas and ke per of the seal thereof, do hereby certify that James A. Hutchings, whose name is signed to the annexed instrument of writing, was, at the time of signing the same, a justice of the peace in and for the county of Pulaski, in said State, duly commissioned according to law, and that his attestation is in due form.

In testimony whereof I have hereunto set my hand and caused the seal of said State to be affixed, at Little Rock, on the 23d day of September, A. D. 1855, and of the Independence of the United States the 80th year.

SEAL OF THE STATE OF ARKANSAS.

ELIAS N. CONWAY.

By the governor:

D. B. GREEN,
Secretary of State.

316 STATE OF MISSOURI,
County of Saint Louis, ss:

WILLIAM MILBURN, being duly sworn, deposeth and sayth that, from the fall of 1816 to the spring of 1839, he was engaged as clerk in the surveyor-general's office, at Saint Louis the most of the time, and when not so engaged he was employed as U. S. deputy surveyor, under said office; and from the spring of 1839 to the summer of 1841 he was U. S. surveyor-general for Illinois and Missouri. He was clerk in the aforesaid office in 1820, and knows that James S. Conway did, in that year, execute a survey for Francis Langlois or his legal representatives, under New-Madrid certificate No. 467, so as to include the springs called the "Wachita Hot Springs," in the then Territory of Arkansas. This survey was executed by Conway under the authority of an order of survey from the then U. S. surveyor-general. And I know that Conway returned to the surveyor-general's office, in 1820, triplicate copies of his survey;

and I know that the plat, field-notes, and signature thereto of survey No. 2903, purporting to have been made for Francis Langlois or his legal representatives, and dated July 16th, 1820, are all in the proper handwriting of the said James S. Conway, who was then a duly-appointed & qualified deputy surveyor for the district then composed of Illinois, Missouri, & Arkansas. The said plat and field-notes & signature are attached hereto. The said survey No. 2903 was approved by the surveyor-general, but was not recorded before the transmission of the papers to the Arkansas office, upon Arkansas being created a separate district, because the immediately adjoining county had not been laid off into sections & townships, and, therefore, the exact position of the survey with reference to the section-lines could not be given; and according to the practice of the office when the survey was returned and approved, the location was considered full and complete.

WILLIAM MILBURN.

Sworn to and subscribed before me this 3d day of October, A. D. 1855.

Witness my hand and the seal of the Saint Louis circuit court, at office in the city of St. Louis, the day and date last aforesaid.

SEAL OF THE CIRCUIT COURT OF ST. LOUIS COUNTY, MO.

WM. I. HAMMOND, *Clk.*

Extracts from record, Hot Springs County, Arkansas.

HENRY M. RECTOR
vs.
FRANCIS LANGLOISE, JOSEPH STORY, & SAMUEL Hammond and his wife, Eliza Hammond. } 12

Came the complainant, and, it appearing to the court that the defendants had been regularly notified of the pendency and object of this suit by publication in the manner & for the time prescribed by law, prior to the last term of this court, a copy of which order and an affidavit of such publication is of record herein, which is ordered to constitute part of the proceedings & remain of record herein; and that at the last term of this court said defendants wholly failed to appear and plead herein, whereupon at said term, the said bill and the allegations thereof were ordered & decreed to be taken as true and confessed as against said defendants; and said defendants having still wholly failed to appear or plead herein, or to show any cause whatever against a final decree herein:

And it *is* now appearing to the court here that said Francis Langloise, by virtue of the act of Congress of the 17th February, 1815, for the relief of the inhabitants of the late county of New Madrid, in the then Territory of *Musiria*, was entitled to two hundred arpents of land and to locate the same in conformity to said act of Congress; and in evidence of such right of said Francis, about the 26th of November, 1818, Fred'rick Bates, recorder of land-titles for the Territory of Missouria, in conformity to said act of Congress issued to said Francis a location-certificate commonly called a New Madrid certificate, giving the right to said Francis and his legal representatives to locate or enter, by virtue thereof, with the principal deputy surveyor for the Territory of *Musuria*, said two hundred arpents of land on any of the public lands in said Territory the sale of which was authorized by law; which right of location & certificate by his deed, dated about the 10th of November, 1818, said Francis Langloise empowered and authorized said Joseph Story, with

full power of substitution, to sell and convey said right and certificate, absolutely, and select and locate the lands in virtue thereof; and said Story, about 24th day of February, A. D. 1820, by his deed, granted, bargained, and sold said certificate and right of entry to said Samuel Hammond and Elias Rector, with covenants of warranty, and said Samuel Hammond and Eliza Hammond, his wife, by their deed, dated the 19th February, 1819, granted, bargained, and sold unto said Elias Rector, his heirs and assigns, forever, in fee-simple, the said certificate and right of entry and the lands selected and located in virtue thereof as next mentioned, with covenants of warranty; that said Hammond and Rector, while owners of said claim, in pursuance of said act of Congress, A. D. 1819, by application and notice addressed to General William Rector, surveyor-general of Il'inois and Territory of *Musuria*, located said New Madrid certificate upon and selected the hot springs, on the waters of the Washita River, now in the State of Arkansas, including said hot springs, the exterior lines of which location to run to the cardinal points, and to be surveyed in a square tract; which said hot springs now lie in said county of Hot Springs; and, in accordance with said notice of location, the boundary-lines of said lands and survey were marked and surveyed and the courses thereof established, about the 16th day of July, A. D. 1820, by James S. Conway, deputy surveyor under said General William Rector aforesaid, which survey, field-notes thereof, and platts were duly returned to said file in the office of the surveyor-general aforesaid, in duplicate; that, afterwards, about the 28th day of February, 1838, one John C. Hale, deputy surveyor of the United States, by order of Edward Cross, surveyor-general of the United States for the State of Arkansas, made a resurvey of said location of said Madrid certificate on said springs, and returned the plat and field-notes thereof to said surveyor-general's office; which survey so made by said Hale as such deputy surveyor contains, as granted by said act of Congress, and as stated in said certificate by said Frederick Bates, dated 26th Nov., 1818, No. 467, two hundred arpents, equal to one hundred and seventy and fifteen-hundredths acres of lands, and describes and identifies the land as follows, the variation of the compass being 8° 45 east, to wit: Begin'ing at the main hot spring of Arkansas; thence south, 45° east, on an unmarked line 29.17 chains, where was set a post, the southeast coroner of said survey, from which a pine, 24 inches in diameter, bears north 7° east, 40 links, and a pine, 16 inches in diameter, bearing north 67° west, 53 links, each marked P. S. & B. T.;
317 thence north, with the line of the survey, at 204 links, a white oak, 13 inches diameter, at 41.25 chains, to a post the northeast corner said survey, from which a pine, 16 inches diameter, bears north 42° east, 15 links, and a black-oak, 8 inches diameter, bears south 68° west, 15 links, each marked P. S. & B. T.; thence west, at 355 links a white-oak, 24 inches diameter, at 41.25 chains, to a post set, the northwest coroner of said survey, from which a white-oak, 16 inches diameter, bears north 10° east, 48 links, and a white-oak, 18 inches in diameter, bears south 58° east, 56 links, each marked P. S. & B. T.; thence south at 60 links a white-oak at 12.10 chains, Hot Spring Creek bears east, at 41.25 chains to a post, the southwest coroner of said survey, from which a black-oak, 6 inches diameter, bears north 48° east, 21 links, and black-oak, 10 inches in diameter, bears north 28° west, 20 links; thence east at 563 links, a black-oak, 12 inches diameter, at 18.87 chains Hot Spring Creek bears south, at 41.25 chains, the southeast coroner of said survey, the main hot spring being in the centre thereof; which survey numbered 2903, platt, map, and field-notes were transmitted to the recorder of

land-titles at St. Louis, Missouri, who was then Fred'rick R. Conway, that the patent therefor might issue according to law, with which were also transmitted the notice of selection and location on said Hot Springs, by said Hammond & Rector, &c.; whereupon said Fred'rick R. Conway, in conformity to law, issued a patent-certificate upon and in conformity to said survey, to and in favor said Langloise or his representatives, establishing and evidenceing their right to said lands so surveyed and selected, to the end that patent from Government of the United States might issue, which patent however never has issued; that said complainant is sole heir of Elias Rector, and is now entitled to the absolute fee in and to the said lands and to a conveyance thereof in absolute fee from said defendants, and to have vested in him and his heirs forever all and every right of said defendants and every of them, and to said right and certificate, and lands, and to have his title quieted and forever settled in respect thereto as against said defendants and those claims-[ing] under them, or any of them.

It is therefore considered, ordered, and adjudged, and decreed by the court here, that the said Francis Langloise, Joseph Story, and Samuel Hammond, and Eliza, his wife, and each of them severally do make, seal, and deliver a deed or deeds in absolute fee to the said complainant, his heirs and assigns, forever, for all their right, interest, and estate of each and every of them in and to the said right under said act of Congress, and said certificate and the lands so surveyed and selected as aforesaid, including said Hot Springs, and that the absolute right and title in fee to said right, certificate, location, and the aforesaid lands be, and the same is hereby, divested out of said defendants and each and every of them, and those holding under them or any of them, and transfer'd to and vested in the said complainant, his heirs and assigns, forever; and title of said complainant, his heirs and assigns, be, and the same is hereby, finally declared and establish', and perpetually quieted and setted as to the said defendants and each and every of them.

And it is further decreed that said defendants pay the costs of this suit, &c.

STATE OF ARKANSAS,
County of Hot Spring:

I, Jno. P. Emerson, clerk of the circuit court in and for the county and State aforesaid, do hereby certify that the foregoing five pages contain a true, perfect, and correct transcript from the record in the foregoing cause.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of office ther'to, at Rockport, on this 23rd day of March, A. D. 1853.

[SEAL.] JNO. P. EMERSON, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Jno. P. Emerson, clerk of the court and ex-officio recorder in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed in my office for record on the 23rd day of March, 1853, and is now duly recorded in record-book D, on pages 205, 206, 207, 208, and 209.

In testimony whereof I have hereunto set my hand as such clerk and affixed the seal of office thereto, at Rockport, on this 23rd day March, A. D. 1853.

[SEAL.] JNO. P. EMERSON,
Clerk and Ex-officio Recorder.

(Indorsed:) 1, 3. Henry M. Rector to Francis Langloise & others. Decree. Filed for record March 23rd, 1853. Jno. P. Emerson, recorder. Fees: Transcribing from the record. $1.00; certificate & seal, 37½; recording cer. & seal, $1.37½; county-tax, 50—$3.25.

Extract from the registry, recorder's office, St. Louis.

A list of relinquishments of lands materially injured by earthquakes in the late county of New Madrid, (present) State of Missouri, under the act of Congress of 17 February, 1815.

Certificate.	Claimants of record.	Quantity.	Situation.	Relinquishm't, by whom.
467.....	Francis Langlois.....	200 arp.....	Lake St. John...	Joseph Story, agent.

RECORDER'S OFFICE,
Saint Louis, 3d October, 1855.

The above is correctly copied from the registry on file in this office.
ADOLPHE RENARD,
Recorder of Land-Titles.

(Indorsed:) 4 (Rt.) List of relinquishments in recorder's office showing that Langlois relinquished to U. States his 200 arpens in the late county of New Madrid.

318 Mr. Sanborn, under general stipulation as to evidence, (page 196,) offers the following, from page 318 to page 333 of this record:

Deposition of A. H. Rutherford, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 1st day of March, 1872.

I reside in the State of Arkansas, and have done so since the year 1830. I am sixty years of age; and have known the complainant, Henry M. Rector, since about the year A. D. 1837. I have pursued various occupations during my residence in Arkansas, amongst other things, that of deputy surveyor of the United States. I did, in A. D. 1838 and 1839, survey or subdivide into sections some of the public lands in Arkansas. Recently, within the last two years, I have been a greater portion of my time in the employment of the Little Rock and Fort Smith Railroad Company, surveying or examining the railroad lands granted to said company by the United States. At the request of Henry M. Rector, who is complainant in this suit, I went to the Hot Springs, in this State, and, on the morning of the third of January last, with chain and compass adjusted to the standard, and with the assistance of two chainmen, commenced an examination on the ground for the lines and courses of a survey made by James S. Conway, deputy surveyor, on the 16th of July, A. D. 1820, and at the same time I examined the survey made by John C. Hale, deputy surveyor, February 28th, 1838, both these surveys having been made in the location of New Madrid certificate numbered 467, in the name of Francis Langlois. My examination was continued from the morning of the 3d to the evening of the 8th January, 1872, and I do not doubt that I found and traced the lines of both Conway and Hale, made respectively at the time stated in their field-notes of survey of said location. The examination made by me of the Conway survey was more extended and careful than that made of the Hale survey, the latter being explored sufficiently, however, to de-

fine with accuracy its relative situation to that of Conway's. I found the survey of James S. Conway to lay around the hot springs in a square form, the boundaries thereof running to the cardinal points, the main hot spring, known as the "iron spring," being very near the center of the square, the east, north, and west boundary lines passing near the summit of the mountain peaks, adjacent to the springs. On the east boundary line of the Conway survey I found eleven trees still standing, bearing unmistakeable evidence of the surveyor's blaze, which is peculiar to surveyors, and is readily recognized by all experienced surveyors, and particularly those who are in the habit of examining old surveys in this country. On the north boundary line I found still standing eight of the line trees; on the west boundary line there were nine blazed trees; and on the south boundary line there is one standing—nearly all the timber on the last-mentioned line having been cut away, and houses built upon the ground. I measured with my chain from the northwest corner south to the creek—creek fifteen links wide, runs east—and found the distance to be seven chains and ten links, as stated in Conway's notes, nearly. I also measured from the southwest corner of said Conway's survey, east along the south boundary line, and I found my measurements to "Hot Springs Creek, twenty-five links wide, runs south" to nineteen chains and twenty-five links, which agrees with Conway's notes precisely. At the southwest corner of Conway's survey, I found the witness or corner tree described in his notes. This tree is a pine, now about twenty inches in diameter, and stands from the corner north forty-seven one-half degrees east, twenty-three links. On the south end of the east boundary, the west end of the north boundary, and the north end of the west boundary of Conway's survey, the timber has been cut down and otherwise destroyed. At the northeast corner of this survey, at the distance and bearing given in Conway's notes, I saw the remains of an oak stump—it may be a red oak—which was ascertained by measure to be forty-one chains and twenty-five links from the southeast corner of said tract, and the remains of the stump examined may have been the original bearing-tree mentioned in Conway's field-notes as the witness or corner tree for that corner. No corner-tree was found at the northwest corner, the land having been long since cleared and put in cultivation. At the southeast corner the timber is also cut; no corner-tree found there. I do not doubt, from the foregoing facts, that the survey found and traced by me was made by James S. Conway at the time and in the manner recited in his notes. The north and south boundaries of Hale's survey appear, as nearly as I could ascertain, to run with those boundaries of the Conway survey. Hale's survey lies, however, west of Conway's one hundred and seventy-four links, as indicated by the red lines on diagram annexed to this deposition, and marked "B." I also examined the closings made by Hale of the public surveys upon the lines of the New Madrid location, and I found that the section-line between sections thirty-two and thirty-three run from south to north, and terminate at or on the south boundary of the New Madrid location, as run out and surveyed by Conway; and such is the case also with the section-line aforesaid, which terminates and closes upon the north boundary of the Conway survey. For explanation whereof I refer to Exhibit B to this deposition. Exhibit B is prepared from the field-notes taken by me in making the examination I have referred to, and it is a correct diagram of the Langlois New Madrid location, on the hot springs, as I found it, and it is also in accor ance with the survey made by James S. Conway, July 16, A. D. 1820, to the best of my knowledge and belief. The blazed trees found

by me on the lines or boundaries of this survey are laid down on Exhibit B in the exact position that I found them to stand on the ground. The topographical features of the sketch, Exhibit B, have been delineated from observation merely, not by actual measurement. The summit of the most elevated points adjacent to the springs attain an altitude of three or four hundred feet, and, in places, are extremely barren and rocky. Some of these marked trees, evidently marked by Conway, are not now more than two or three inches larger, in all probability, than they were when marked by him in July, 1820. I have repeatedly, in examining old surveys in the mountain district of this State, found trees marked by surveyors fifty years ago, that were not, when I found them, more than six or seven inches in diameter. Exhibit C to this deposition is the field-notes taken by me on making the examination in January last of the Conway survey at the hot springs. I knew James S. Conway in his life-time quite well. He was a man of character, and held many positions of honor in the Government. Amongst others, he was elected in 1836 governor of the State of Arkansas, and held the office four years; and previous to that, he was United States surveyor-general for the district of Arkansas. I have before me now a paper purporting to be the original field-notes of survey made of the hot springs, 16th July, 1820, by said James S. Conway, marked Exhibit A to the deposition given before the Hon. D. Reeve, by Henry M. Rector, the complainant in this suit. I have often seen James S. Conway write; was, in his life-time, familiar with his handwriting; have this day examined his handwriting of papers originally pertaining to the office of surveyor-general of Arkansas, and I believe that
319 this paper, A, is, in the body and signature, the personal handwriting of James S. Conway.

Cross-examination by S. R. Harrington, esq.:

In answer to question, affiant states: I knew that I was examining the Conway survey, because I had a certified copy of the Conway survey, and I found one of the witness-trees as described in Conway's notes.

No further questions being asked, and the foregoing having been read over and corrected, is signed in my presence, and that of the complainant, and the said S. R. Harrington, United States district attorney.

A. H. RUTHERFORD.

Deposition of Caleb Langtree, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 1st day of March, 1872.

I am acquainted with Henry M. Rector, complainant in this suit, and have known him for many years past. I have been a citizen of Arkansas for the last thirty years, and was formerly engaged as a clerk in the surveyor-general's office, at Little Rock, Arkansas, where I was principally engaged in examining and platting from the original field-notes of survey. I fully understand the mode and manner of running the public surveys, having been employed as a deputy surveyor by the United States Government. I understand the use of all kinds of instruments used in the public surveys, and am well acquainted with all the marks made by surveyors on the trees and on the ground; and, having been called upon as a surveyor, by Henry M. Rector, to examine and identify, upon the ground, a certain survey of a New Madrid location, numbered 2903, certificate No. 467, made by James S. Conway, July 16, 1820, I hereby depose and state that, with competent surveying-instruments, and with a true and correct copy of the survey of said Conway before

me, I did, on the 28th day of August, 1867, commence an examination of said survey, and continued my examination on the 29th day of August, 1867; that, by running the courses and measuring the distances called for in the survey of said Conway, I am fully satisfied as to the identical survey being actually located as represented, and that I believe it to be the actual survey made by the said James S. Conway, which I recognized and identified on the ground as the survey made for Francis Langlois on the 16th day of July, 1820.

The copy of survey made by Conway, alluded to in this testimony, is hereto attached and marked. There being no questions asked in cross-examination of this witness, his testimony is read over, corrected, and signed in the presence of all the parties above mentioned.

C. LANGTREE.

Deposition of Edward Cross, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 2d day of March, 1872.

I was surveyor-general of Arkansas under appointment from the United States in the year eighteen hundred and thirty-eight, and recollect that Henry M. Rector, complainant in this suit, was, during my incumbency, prosecuting his claim to the hot springs on the Ouachita in virtue of a New Madrid location made by his father, Elias Rector, and some other person or persons on said springs. I recollect that about that time John C. Hale, esq., deputy surveyor, entered into contract with me, as such surveyor-general, to subdivide several townships in and around the Magnet Cove and the hot springs; and that in this contract was included the subdivisional work of township two south, in range nineteen west, in which is situate said hot springs, and in which the location aforesaid, made by said Elias Rector, and another or other persons, is also situated. The said New Madrid claim is located, as it appears, in the name of Francis Langlois or his legal representatives. I remember that, as such surveyor-general, I issued an order to the said deputy, John C. Hale, to make a survey of said location, and to close the lines of public surveys upon the boundaries of the said private survey. My impressions are that at the time Mr. Hale surveyed the township as aforesaid there was on file in the surveyor-general's office at Little Rock—and to which I had been appointed, succeeding the late James S. Conway—a survey of said Langlois' claim, made by said James S. Conway, as deputy-surveyor, of ancient date—it may be eighteen hundred and twenty. To the best of my recollection, when I issued the order to said Hale to survey the township two south, range nineteen west, or Hot Spring Township and the said location—or about that time—Governor James J. Conway, then acting as governor of Arkansas, in a conversation with me on the subject of the hot springs and this location, spoke of his having made the original survey of the claim, under the New Madrid act, for Hammond and Rector, or Colonel Elias Rector, late of St. Louis, Missouri. I understood and believed when I issued the directions to Hale as to making the resurvey of the location that the lines of the old survey made by Conway were or had been obliterated, or otherwise rendered ineffectual. From an examination of the survey made of said claim attached to these depositions, and marked "Exhibit A," bearing date the 16th day of July, 1820, signed by James S. Conway, deputy surveyor, from my knowledge of said Conway's handwriting and signature to several other private surveys of New Madrid claims now on file in the auditor's office of the State of Arkansas, and by me personally examined on this 2d day of March 1872, I do not doubt the genuineness of the signature affixed to the said

plat and survey, marked "Exhibit A." And, indeed, the whole paper, from the handwriting, appears to have been made by him in person. I have been somewhat familiar with the history of the claim in question, and particularly so about the time I was acting as surveyor-general, said claim being in active prosecution before the Departments at Washington in and about that period. I never recollect to have heard any objection made to it on account of its not having been surveyed; but I always understood that it was decided against on the ground of its being south of the Arkansas River, and within the district of country ceded by the Quapaw Indians to the United States, in the year eighteen hundred and eighteen. My impressions are more distinct upon this latter branch of the subject, because, in the year eighteen hundred and forty-three, at the instance of Henry M. Rector, I gave my attention, and participated as a member of the lower house of Congress of the United States from Arkansas, in the passage of a law to remove the objection to said claim as to Indian territory, &c., which it was then thought removed the only objection urged against the claim by the Departments at Washington. This, at least, was my impression at the time, and such are my views up to this period. I gave my testimony in reference to the subject-matter herein mentioned on the 8th day of May, A. D. 1855, and my impressions are now the same as they were then.

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Cross-examined by S. R. Harrington, United States district attorney:

In reply to question, witness says: I think the order that I issued to Hale was made a matter of record in the surveyor-general's office, and I presume that he made a report and plat of the survey, but I have no distinct recollection about it.

There being no further evidence, the testimony is read over, corrected, and signed in the presence of all the parties.

EDW. CROSS, SEN'R.

Deposition of James R. Berry, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 5th day of March, 1872.

I am a native of Alabama; am forty-two years of age, and I am at this time holding the office of auditor of the State of Arkansas, and I know Henry M. Rector, complainant in this suit. The office of surveyor-general of Arkansas was closed about the year A. D. 1859, to the best of my recollection, and I am now ex-officio custodian of the original papers and records belonging to the office of surveyor-general aforesaid. There is now in my office a bundle of papers numbered 205, which bundle originally belonged to the office of surveyor-general of Arkansas. This bundle, 205, contains the papers of all New Madrid surveys located in Arkansas. There are twenty-two of these claims located in this State. In this bundle there are the following papers connected with the New Madrid location of Francis Langlois, on the hot springs of this State, to wit: Location certificate, signed by Frederick Bates, recorder of land-titles; application for location by Hammond and Rector, addressed to General William Rector, surveyor-general; a copy of survey made by James S. Conway, deputy surveyor, 16th July, A. D. 1820; survey made by Hale, deputy surveyor, 28th February, A. D. 1838. The papers of this office show that Conway and Hale were deputy surveyors of the United States. James S. Conway was a man of good standing; held high official positions; was governor of the State of Arkansas in 1836. Conway is now dead. I know Edward Cross. He is a man of high

character; was surveyor-general of Arkansas, member of Congress from Arkansas, &c., &c. I have examined survey made by James S. Conway, now marked "Exhibit A," to these depositions, and its appearance is similar to other papers in bundle 205 belonging to other New Madrid locations. It has upon the water-mark "Patterson & Co." And so do other papers of that bundle, of corresponding age, or nearly so, have the same marks, "Patterson & Co." James S. Conway's handwriting appears in a number of papers now on file in my office, and originally belonging to the office of surveyor-general, and, after examining Exhibit A, now before me, and said Conway's handwriting in the papers aforesaid, I believe Exhibit A is in the proper handwriting of James S. Conway. The series of papers in each New Madrid claim is: First, the location-certificate, signed by Frederick Bates; second, the application for the location by the locator, and the survey, if one is made. In some of these locations several surveys have been made. Some of these claims appear to have been located without any survey at all; that is the case where they were located on land already surveyed. The location-certificate, No. 33, located in the name of John Dorlac, appears to be lost or missing from the files. The original papers, including surveys of New Madrid locations and Spanish grants, are now on file in my office. Hale's survey of the hot springs is numbered 2903. Exhibit A was recently wit'drawn from my office by the complainant, Henry M. Rector, and a copy of the same substituted.

There being no cross-examination, the testimony is read over, corrected, and signed by the witnes' in my presence, and in the presence of all the parties aforesaid.

JAMES R. BERRY.

Deposition of Andrew J. Smith, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 5th day of March, 1872.

In March, 1862, I was an acting and duly commissioned and qualified justice of the peace within and for the county of Pulaski, and State of Arkansas, and I recolleet that, as such justice, I took the depositions of Ignatius Willamonitze, George A. Worthen, and John R. Conway, which depositions were taken at the instance of Henry M. Rector, to be read as evidence in the State courts of Arkansas, in what was known as the Hot Spring case or cases, wherein said Henry M. Rector was one of the parties, probably complainant, and William H. Gaines and others were defendants, I think. Having no interest in the subject-matter or suit, I have now no recollection of what said witnesses stated as their evidence, the original depositions not being now before me. I only say that whatever appears as their evidence in the original depositions or papers then certified by me, as such justice, was then and there stated by said Willimonitze, Worthen, and Conway, after being by me duly qualified under oath to state the truth in *the in* reference to the subject-matter then and there inquired of. I recollect that said Henry M. Rector, now complainant in this case against the United States, and whom I have known for many years, was present at the taking of said depositions aforesaid, and I think George C. Watkins, as counsel for Gaines, was also present. I am informed and believe that Ignatius Williamonitz and George A. Worthen, being the same parties who testified as aforesaid before me, are dead. Conway I know nothing of now, but I am informed that he is dead also.

The United States district attorney, not desiring to make any cross-examination, the testimony is read over, corrected, and signed by the

witness in my presence, and of the complainant, and the United States district attorney.

A. J. SMITH.

Deposition of Henry M. Rector, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 7th day of March, 1872.

In October, A. D. 1855, I was in St. Louis, Missouri, and procured the deposition of General William Milburn as to the facts connected with the location made by James S. Conway, deputy surveyor, on the "Hot Springs of the Ouachita," 16th July, A. D. 1820, location-certificate No. 467, survey 2903, in favor of Francis Langlois or legal repre-
321 sentatives. This deposition was taken to be used in connection with other proof before the Land Department at Washington. Milburn prepared his statement, showed it to me, and I was present and saw him swear to it before an officer competent to administer oaths. I do not now recollect the name of the officer before whom he qualified to the statement, but, by reference to a certified copy of his statement, which I now have before me, including the certificate of the officer before whom it was taken, I believe that officer was the clerk of the circuit court of St. Louis County, William J. Hammond. And I further state that the sworn statement that I then heard said Milburn make is contained and set forth in the first and second pages of Exhibit D to these depositions, with the following exceptions, that is: Insert the word "office" between the word "aforesaid," and the word "in" on thirteenth line from top, first page of said exhibit. Second: Substitute the word "recorded" for the word "received," in the tenth line from the top, second page of said exhibit. Thirdly: The word "line," in the seventeenth line from top, second page of said exhibit, ought to be "lines." These errors, I have no doubt, occurred in copying from the originals in the clerk's office of the Hot Spring circuit court of Arkansas. I knew General William Milburn from my early boyhood. He was then a clerk in General William Rector's surveyor's office, St. Louis, Missouri. Milburn, I think, was a man of unblemished integrity, and, as I am informed and believe, he died at or near St. Louis, a few years after he gave the depositions by me here referred to. In March, 1862, in a cause then depending in the State courts of Arkansas, wherein I was complainant in equity vs. William H. Gaines et al., I did, before A. J. Smith, a justice of the peace duly qualified and acting as such for the county of Pulaski, State of Arkansas, take the depositions under oath, and in all things according to the laws of the State of Arkansas, of George A. Worthen, Ignatius Williamonnitze, and John C. Conway, all of whom are now dead. And I state that their testimony and statements then and there as aforetaken, had, and given, to wit, in March, A. D. 1862, is the statement and testimony that is stated and written on pages from seven to fifty-two, inclusive, of said Exhibit D; that is, saving some verbal inaccuracies which have transpired in copying from the originals, which alterations or omissions, to the best of my knowledge and belief, do not materially change, modify, or abate their evidence in reference to the matters and things referred to in any material or important degree whatever, the original depositions of these persons being now on file in said causes aforesaid at the clerk's office of the circuit court for Hot Spring County, Arkansas.

I further state that I personally knew one Robert A. Calloway, now deceased, and I state that, in the year A. D. 1855, the said Robert A. Calloway, then in full life, and residing at Camden, Arkansas, did, upon

my request by letter, write out, I think in his own handwriting, and sign and swear to, as I believe, before one R. B. Pate, justice of the peace, duly authorized and commissioned as such justice for the county of Ouachita, State of Arkansas, the statement now appearing as his evidence, pages from three to five inclusive, of said Exhibit D to these depositions. That sworn statement was by said Calloway transmitted to me, I think, through the United States mail, and the original was by me, as I now recollect, deposited in the General Land-Office, at Washington, D. C., where it still is, so far as I know.

And I further state that I had several conversations with said Calloway in reference to the matters referred to by him in his said sworn statemens aforesaid, and that in those conversations he uniformly and emphatically related to me the same and identical facts and things, no more nor less than those produced and now written on the said pages, from three to five of said exhibit aforesaid. The testimony aforesaid of William Milburn and Robert A. Calloway was, by consent and agreement of Joseph S. Wilson, then—A. D. 1855—acting as chief clerk of private land-claims, or acting, it may be, in the capacity of "Acting Commissioner General Land-Office," taken ex parte; at least, so I was advised; and, upon that advice or impression I know I then proceeded and took the sworn statement of these two persons, Calloway and Milburn, and several others, and filed the testimony thus taken with the Commissioner of the General Land-Office, Washington, D. C.

I know of no other witness or witnesses by whom I can prove all the material facts stated by either Milburn, Worthen, John R. Conway, or Willimonitze. I have a day or so since proven by Edward Cross some of the facts stated by Calloway—not all of them. I may prove by Frederick R. Conway—who, I believe, still survives—some of the facts stated by Milburn, but, my impression is, not all of them. Willemontze died in May or June, A. D. 1871, but before the United States submitted her answer in this cause, as I now recollect. John R. Conway, Milburn, Worthen, and Calloway died long anterior to the institution of this suit.

The said S. R. Harrington being present, but not asking any questions in cross examination, the testimony of the witness is read over, corrected, and signed at the place and on the day aforesaid.

H. M. RECTOR.

Deposition of John Hutt, for claimant, taken before the probate judge of Pulaski County, Arkansas, on the 7th day of March, 1872.

I settled in Arkansas in the year A. D. 1832, and have resided in Little Rock most of the time since. Shortly after I came I heard it said that some persons of St. Louis, Missouri, by the name of Hammond, and one Rector, had some time previously located the hot springs in this State, then Territory, with a New Madrid warrant or claim; such was the general understanding in the country, at that time and since. I have known Henry M. Rector, the complainant in this suit, for many years. He is, or at least he is reputed to be, the son of the Rector who laid the claim on the springs. I knew James S. Conway in his life-time; have seen him write, and have often seen his handwriting among the records of the old surveyor's office for Arkansas. I was a clerk in that office at one time. Exhibit A to these depositions now before me I believe is in the handwriting of the aforesaid James S. Conway. Conway was United States surveyor-general for the district of Arkansas from A. D. 1833 to 1836. He was, about the latter period, elected gov-

ernor of the State of Arkansas, then recently admitted into the Union.

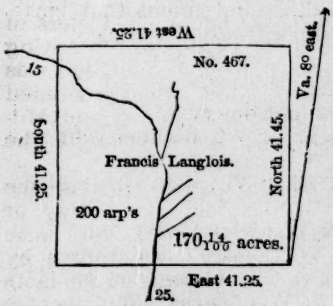
There being no questions asked in cross-examination, the testimony is read over, corrected, and signed by the witness.

JNO. HUTT.

I hereby certify that the foregoing twenty-three pages, including this, was by me reduced to writing at the time and place, and in the presence of the parties therein named, and that the testimony, after having
322 been reduced to writing, was read over and corrected by each of the witnesses, and signed by each of them, respectively, in my presence. Witness my hand this 7th day of March, A. D. 1872.

D. REEVE,
County and Probate Judge of Pulaski County, Arkansas.

EXHIBIT A.—*D. Reeve, judge & exr.*



Survey No. 2903, certificate No. 467, surveyed for Francis Langlois, or his legal representatives. 200 arpens of land, located by virtue of a new Madrid certificate, beginning at a post from which a pine 10 inches in diameter (marked thus: H. & R.) bears S. 47° E., 8 links; thence south 7 chains; a creek 15 links wide runs east; at 41 chs. & 25 lks. set a post from which a pine 15 inches in diameter bears N. 47½° E., 23 links; thence east 19 chs. & 25 lks. to Hot Spring Creek; 25 chs. wide, runs south; at 41 chs. & 25 lks. set a post from which a P. oak 10 inches in diameter bears S. 86° E., 6 links; thence N. at 41 chs. & 25 lks., set a post from which a red oak 6 inches in diameter bears S. 62° W., 16 links; thence west 41 chs. and 25 links to the beginning.

July 16th, 1820.

JAMES S. CONWAY,
D. Surveyor.

This is Exhibit A referred to in the foregoing depositions.

D. REEVE, *Judge, &c.*

(Indorsed:) A plat of the hot springs. Title-papers to Cockerham claim.

SURVEYOR'S OFFICE,
Little Rock, Ark., 23rd Sept., 1850.

This paper, and a duplicate of the same, were left at this office, to be filed with the papers of New Madrid claim, certificate No. 467, on the 18th day of June, 1850, by Henry M. Rector, but are not of record here, now known as constituting any part of the official papers connected with said claim.

The duplicate was withdrawn by Henry M. Rector, on the 12th day of Sept'r, 1850.

GEO. A. WORTHEN, *Chf. Clk.*

Attached hereto is Exhibit A referred to in the foregoing depositions.

D. REEVE, *Judge, &c.*

[For diagram, marked in red ink on the back Exhibit B, see original depositions, filed April 8, 1872.]

Exhibit C, referred to in the foregoing depositions.—D. Reeve, judge, &c.

Examined for Gov. Henry M. Rector, the survey of James S. Conway of Francis Langlois' certificate of location No. 467, for 200 arpens of land, embracing the Hot Springs of Arkansas, in township two south, of range nineteen west of the 5th principal meridian, and executed on the 16th day of July, 1820, said survey being No. 2903:

Commencing at a pile of rocks for the N. E. corner of the survey, with my compass adjusted to a variation of 8° east, the bearing-tree not found, having been destroyed; but an oak stump found that corresponds in bearing and distance with the corner-tree.

Thence west:

Timber along the line for about 8.00 cut down.

10.15 a white oak, 20 ins. in dia., blazed E. & W., distinctly; blazes old.

10.59 a black gum, 10 ins. in dia., blazed E. & W., distinctly; blazes old.

13.76 a red oak, 22 ins. in dia., blazed E. & W.; blazes very old.

14.66 a hickory, 8 ins. in dia., blazed E. & W.; blazes old and plain.

16.00 a black jack, 12 ins. in dia., blazed E. & W.; blazes very old.

18.80 a hickory, 6 ins. in dia., & blazed E. & W.; blazes old.

19.16 a red oak, 25 inches in dia., blazed E. & W.; blazes old.

Timber along the line here cut down.

26.19 a pine, 13 inches in dia., blazed E. & W.; blazes very old.

41.25 N. W. corner of the tract. The corner is an open field, and no trace of the index-tree could be found or identified. A stone had been placed at the corner as ascertained by measuring the line. The timber along the line for about 10.00 east of the N. W. has been cut down.

Thence south on random line:

41.25 to S. W. corner, a pine, now about 20 ins. in dia., and bears N. 47½° E., 23 links; corner identified.

Thence run north, from the S. W. corner of said survey, noting all the line-trees blazed, with the distances from said S. W. corner:

4.55 a black-jack, 10 ins. dia., blazed N. & S.; blazes old & plain.

5.40 a black oak, 20 ins. in dia., blazed N. & S., distinctly; blazes old.

8.85 a post-oak, 8 inches in dia., blazed N. & S., distinctly; blazes very old.

10.64 a hickory, 14 inches in dia., blazed very distinctly, N. & S.

11.34 a pine, 20 inches in dia., blazed very distinctly, N. & S.; blazes very old.

12.27 a pine, 22 inches in dia., on top of hill; distinctly blazed, and very old.

15.00 a pine, 22 inches in dia., blazed distinctly on the N. side, but no blaze discovered on the S. side, the bark having been burnt by the casualties of time.

18.30 a dead pine stump, 8 feet high and 18 inches in dia., distinctly blazed on the N. side; the S. side burnt, and the marks obliterated, if any made.
20.64 a pine 15 inches in dia., blazed N. & S.; knots on the tree where blazed, rendering it difficult to determine their character.
34.15 to north bank of a creek 15 links wide, which bears N. E.
41.25 to the N. W. of the survey, as ascertained by measuring the lines.

323 Thence from the N. E. of said survey, south:
41.25 to the S. E. corner of the tract; bearing or corner tree not found.

Thence from S. E. of said tract, run' west:
21.75 Hot Spring Creek, 25 links wide, bears south.
35.25 a dead pine, 18 inches in dia., blazed E. & W., distinctly, and the blazes very old.
41.25 to the S. W. corner of said survey, the bearing-tree, a pine, now about 20 inches in dia., and bears N. 47½° E., 23 links, which is fully identified; from the bearing of the tree, the size, blaze, and notch in it, and the distance from Hot Spring Creek, as now measured, agreeing, as nearly as it is practicable to measure lines through and over brush.

The original forest timber cut and blown down, and destroyed along the line for about 33.50 on the east part of the line; some timber along the line for about 8.00 east of the S. W. corner, identified as aforesaid, but the growth at present being small, and, therefore, accounts for the missing line-trees.

Thence from the S. E. of said survey made by James S. Conway, run north, on the east boundary line, noting all the line-trees on the same, and giving the distance of each from the S. E. corner, which point was ascertained by measuring from the S. W. corner, 41.25, and also 22.00 from the west margin of Hot Spring Creek, and was fixed upon as the S. E. corner of said survey; the bearing-tree not found; no timber near the point. The timber along the line for 10.00 has been cut, and much of it for 15.00 has been cut or destroyed:
15.22 a post, (oak,) 16 inches in dia., hollow on the N. side, at the ground, and for 6 or 7 feet, distinctly blazed on the S. side; the blaze old and distinctly made.
18.50 a black-jack, 7 inches in dia., blazed N. & S. distinctly.
19.65 a post-oak, 9 inches in dia., hollow on the N. W. side, blazed N. & S.; blazes old and distinctly made.
21.01 a pine, 10 inches in dia., blazed N. & S. distinctly.
21.96½ a pine, 15 inches in diameter, blazed distinctly on the N. side.
22.42 a black-jack, 10 inches in dia., blazed N. & S. distinctly.
24.62 a black jack, 9 inches in dia., blazed N. & S. distinctly; blazes old.
25.40 a forked white oak, both forks blazed; on the largest blazes old.
28.30 a black-jack, 8 inches in dia., blazed on S. side, distinctly; blazes old.
38.77 a black oak, 15 inches in dia., blazed N. & S. distinctly.
39.60 a pine, 16 inches in dia., blazed N. & S. distinctly.
41.25 to N. E. corner of said survey.

Then to fix the N. E. corner of John C. Hale's survey of the same tract, measured as follows:

Thence west from the N. E. corner established by James S. Conway, in his survey No. 2903, of certificate of claim No. 467, of Francis Langlois, 174 links to the north and south line, on the east boundary of John C. Hale's survey, made under the order and instructions of the surveyor-

general of public lands of the United States, on the 28th February, 1838; could not find Hale's bearing-trees, or identify his N. E. corner, except by the crossing of the N. line of James S. Conway's survey, running E. & W., which fixes the N. E. corner of Hale's survey 174 links W. of James S. Conway's N. E. corner.

HOT SPRINGS, HOT SPRING CO., ARK., *Jan'y* 6, 1872.

I certify the above field-notes and measurement of lines and trees to be correct.

A. H. RUTHERFORD, *Surveyor.*

Thence north on a random line from the center the south boundary of New Madrid location, No. 467, as surveyed by James S. Conway on the 16th July, 1820, in the following manner, viz:

Beginning at a point on the bridge over Hot Spring Creek, and just below the Hot Spring Ho'el, and at 20.62½ east from the S. W. corner of said survey.

2.00 west, on offset to avoid buildings on the line; thence
17.50 north; thence
1.00 east; thence
1.50 north; thence
0.50 east; thence
1.62½ north; thence
0.50 east to a point N. of beginning, and 160 links W. of main hot spring.

JANY. 6, 1872.

MONDAY MORNING, *January 8th*, 1872.

Commenced on the south boundary of T. 2 S., R. 19 west, near a pine stump, at a stake on said line, or corner to sec's 32 & 33, T. 2 S., R. 19 W.; said corner trees have been destroyed, the timber having been all cut.

Thence north:

Chains.

13.38, intersected the south boundary of New Madrid location No. 467, one hundred and fifty-five and a half links (155½) east of the middle door of the Sumpter House, on the E. side, and 15.00 chains E. of the S. W. corner of the survey made by James S. Conway on the 16th July, 1820. The timber is all cut on the line of the New Madrid location, No. 467, and no trace could be found of the bearing trees made by John C. Hale in 1838.

Thence east from the S. W. corner of John C. Hale's survey of New Madrid location, No. 467, made February 28th, 1838, which corner was identified, one tree still standing:

1.78 to the S. W. of James S. Conway's survey of the same grant of land.

Thence east from the S. W. corner of said Conway's survey, on the south boundary-line:

6.00 a dead pine, about 18 or 20 inches in dia., blazed E. & W., distinctly; blazes old, and have the appearance of blazes made on lines run as far back as the field-notes in this survey date.
13.00 the Sumpter House.
15.00 crossed the point of intersection of the line between sec's 32 & 33, T. 2 S., R. 19 W.
19.25 Hot Spring Creek, about 25 links wide—if the water in the creek

is not dam'ed up, as it is at this time. This point on the creek is 6 or 8 feet east, and 87 links S. of the S. E. corner of the Hot Springs Hotel, in its present condition, on 8th Jan'y, 1872.

Thence, examined the index-trees on the north boundary line
324 of the New Madrid location, No. 467, which are standing, and distinctly marked for the sec's 32 & 33, to wit, a pine said to be 14 inches when marked, but now about 20 inches in dia., and bears N. 17° W. 12 links, and a pine said to be 16 inches when marked, and is not any larger now, which bears N. 28° E. 31 links. The corner-trees here given are fully identified.

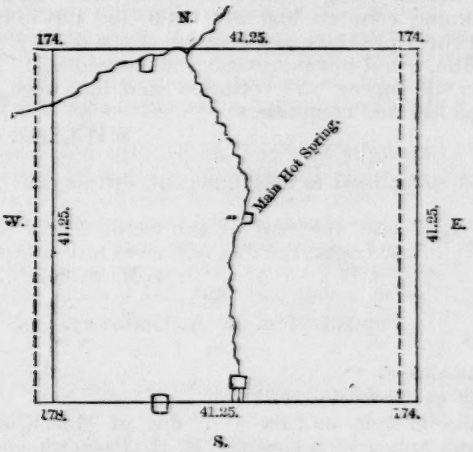
I certify the above survey and examination of the lines around said New Madrid location, with connecting lines between sec's 32 & 33 on said claim, are correct, as therein stated.

Hot Springs, Ark's, Jan'y 8th, 1872.

A. H. RUTHERFORD,
Surveyor.

EXHIBIT C.—*D. Reeve, judge, &c.*

Diagram of private of James S. Conway, made for Francis Langlois, being for 200 a'prens, of land, located by virtue of a New Madrid certificate, No. 467, on the 16th July, 1820, covering and embracing the Hot Springs of Arkansas, in T. 2 S., R. 19 W., said survey being No. 2903.



The black lines represent the survey of James S. Conway, and the dottled lines on the E. & W. represent the east and west boundary of the survey made by John C. Hale, and the N. & S. lines of Hale's survey running with the black lines, or nearly so.

Hot Springs, Ark., Jan'y 8th, 1872.

A. H. RUTHERFORD,
Surveyor.

Exhibit D, referred to in the foregoing depositions—D. Reeve, judge, &c.

Deposition of Wm. Milburn.

STATE OF MISSOURI,
County of St. Louis, ss.:

William Milburn, being duly sworn, deposeth and sayeth that from

the fall of 1816 to the spring of 1839 he was engaged as clerk in the surveyor-general's office at St. Louis the most of the time, and when not so engaged he was employed as U. S. deputy surveyor, under said office. And from the spring of 1839 to the summer of 1841, he was United States surveyor-general for Illinois and Missouri. He was clerk in the aforesaid in 1820, and knows that James S. Conway did in that year execute a survey for Francis Langlois, or his legal representatives, under New Madrid certificate No. 467, so as to include the hot springs, called the "the Washita hot springs," in the then Territory of Arkansas. This survey was executed by Conway, under the authority of an order of survey from the then U. S. surveyor-general, and I know that Conway returned to the surveyor-general's office, in 1820, triplicate copies of his survey; and I know that the plat, field-notes, and signature thereto, of survey No. 2903, purporting to have been made for Francis Langlois, or his legal representatives, and dated July 16, 1820, are all in the proper handwriting of the said James S. Conway, who was then a duly appointed and qualified deputy surveyor for the district then composed of Illinois, Missouri, and Arkansas. The said plat and field-notes, and signatures attached hereto. *The said plat and field-notes, and signature are attached hereto.* The said survey No. 2903 was approved by the surveyor-general, but was not received before the transmission of the papers to the Arkansas office, upon Arkansas being created a separate district, because the immediately adjoining country had not been laid off into sections and townships, and therefore the exact position of the survey, with reference to the section-line, could not be given; and, according to the practice of the office, when the survey was returned and approved, the locations were considered full and complete.

WILLIAM MILBURN.

Sworn to and subscribed to before me this 3rd day of October, A. D. 1855.

Witness my hand and the seal of the Saint Louis circuit court, at office in the city of St. Louis, the day and date last aforesaid.

[L. S.] WM. J. HAMMOND, *Clk.*

Deposition of R. A. Calloway.

STATE OF ARKANSAS,
County of Ouachita, ss:

Be it remembered that, on this day of March, A. D. 1855, personally came and appeared before me, R. B. Pate, an acting and duly commissioned justice of the peace within and for the county and State aforesaid, Robert A. Calloway, who, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, deposes and states as follows, to wit: That, in or about the month of , A. D. 1833, I was employed by the late James S. Conway, then recently appointed surveyor-general of the Territory of Arkansas, as one of the clerks in said office; indeed I was the first person employed by said Conway as clerk in his office, upon his organizing and putting in operation that office after his return from St. Louis, Missouri, whither he had recently before gone, in order to procure and convey to Little Rock, Arkansas, the papers, records, and documents, &c., &c., pertaining to lands situate in said Territory of Arkansas, and which had before been kept in the land-office in St. Louis. I continued to act
325 as clerk in said office until July, A. D. 1836, when said James S.

Conway had ceased to be such surveyor-general, and the Hon. Edward Cross had been appointed and was acting as his successor.

In organizing the surveyor-general's office upon its first establishment, handling, apportioning, and separating into appropriate parcels the various documents, papers, records, &c., pertaining to lands in Arkansas, so brought by James S. Conway to Little Rock, as before stated, gave me a very full knowledge of the papers and documents, &c., so brought to Little Rock by said Conway, pertaining to his office. And this familiarity was kept up so long as I remained in the office, in consequence of my several employments therein, and having frequent occasion to refer to and handle the papers.

Amongst the papers so transferred from St. Louis to the surveyor-general's office in Arkansas, and so brought to Little Rock, by said Conway, as above stated, and deposited among the archives of his office at Little Rock, I recollect distinctly, were papers of a New Madrid claim, located at the hot springs in Arkansas, and a then old survey of the claim, embracing the springs, made by a deputy surveyor of the United States. I speak with positive certainty of this fact, because the notoriety of the springs at the time, and their supposed value, induced me to notice the claim and papers particularly.

These papers, &c., including the survey, were then deemed and treated as much to be public documents and records of the office as any other documents or records transferred from St. Louis, and were so kept and treated in that office so long as I was employed therein. I cannot speak with positive certainty as to the name of the parties, but my best recollection is that Francis Langlois was the name of the original claimant, and Hammond & Rector were the locators of the claim. The name of the deputy surveyor who made and returned the survey has escaped my recollection.

I became acquainted with H. M. Rector, the present claimant of the hot springs under the Langlois New Madrid claim, in the year 1835, at Little Rock, Arkansas, whither he had then recently come, as I understood, to look into and prosecute his claim to the hot springs.

He was then a youth, apparently not more than eighteen or twenty years of age. I have not personally seen or examined the papers and survey referred to since I left the surveyor-general's office, in 1836, though upon inspection I think I could identify the papers.

R. A. CALLOWAY.

Sworn to and subscribed before me this 28th day of April, A. D. 1855.

R. B. PATE, *J. P.*

STATE OF ARKANSAS:

I, Elias N. Conway, governor of the State of Arkansas, and keeper of the seal thereof, whose name is signed to the annexed instrument of writing, was, at the time of signing the same, a justice of the peace in and for the county of Ouachita, in said State, duly commissioned according to law, and that his attestation is in due form.

In testimony whereof I have hereunto set my hand and caused the seal of said State to be affixed, at Little Rock, on the 23d day of September, A. D. 1855, and of the Independence of the United States the 80th year.

ELIAS N. CONWAY.

By the governor.

D. B. GREER, *Secretary of State.*

Depositions read on the part of complainant.

Deposition of IGNATIUS WILLAMONICZ, taken on the 10th day of February, 1860, who deposes that:

I gave my deposition in this case, to wit, Henry M. Rector vs. William H. Gaines and others, defendants, at the instance of the defendants, about the last of August, 1861, and in which deposition I stated there were a series of papers appertaining to each New Madrid claim on file in the auditor's office now, and formerly the surveyor's office, the description of which papers appears on a schedule prepared by me while I was a clerk in said surveyor's office, to wit:

First. A certificate of the recorder at St. Louis. Second. The application for survey. Third. The order of survey by the surveyor-general. Fourth. The return of survey and location by the deputy surveyor; that is, where the papers are complete.

By the request of Governor Rector I have recently examined both the schedule and the original papers referred to in said depositions, and found that the paper named order of survey, does not constitute a part of the files of every New Madrid claim, as stated by me in my deposition, in August or September, 1861, and the statement made in the depositions at that time, then believed to be true, I have found, upon further examination, to be a mistake.

I have examined the New Madrid papers, referred to in my deposition taken in August or September last, and find that there are only two orders for survey on file among those papers, to wit: Certificate No. 236, to Benjamin Fay, and certificate No. 158, to Benjamin Dement, and those were the only orders of survey that were on file among those papers, as appears by the schedule when said schedule was made.

The order of Edward Cross, surveyor-general, dated the 12th of May, 1837, given to John C. Hale, I find to be entered or described in said schedule, at page 315, in bundle No. 239, under the head of contracts and instructions, and not in said bundle No. 205, of New Madrid claims.

Most of the surveys of the New Madrid claims are recorded by John H. Crease, between the year 1843 and 1849. I do not remember the exact date. Some of them were recorded previously by Garden N. Perry, as I believe. This recording was done in folio record, book A, a record of private survey, now on file in the auditor's office, and formerly in the surveyor-general's office of Arkansas. Upon examination of the schedule above referred to, and the original New Madrid papers, I find that there are five of the claims that have no notes of survey on file with the other papers of those claims, and no notes of survey appear from said schedule to have been on file in said office of surveyor-general, when said schedule was made, viz: Claim in the name of Elizabeth Jones, certificate No. 140; claim of Thomas Waters, certificate No. 172; claim of Francis St. Mary, certificate No. 472, and claim of O. St. Mary, certificate 468. And I further found upon examination of said schedule and papers, that the following claims, to wit: Certificate No. 504 was surveyed in 1830, issued in the name of John Layed; certificate No. 158, issued to Benjamin Dement, was surveyed in August 13, 1831; certificate No. 236, issued to Benjamin Fay, was surveyed on the 8th of November, 1832; certificate No. 477, issued to Edward Proctor, was surveyed on the 4th of December, 1833; certificate No. 156, issued to Henry Cockerham, was surveyed in May, 1839; certificate No. 417, issued to Ignace Hunotonas, surveyed 3 January, 1823; certificate No. 327, issued to Andrew Woods, surveyed in June, 1824; certificate No. 397, issued to Thomas Trenchard, was surveyed on the 7th of June, 1824.

326 The claims referred to by me as having been recorded by Mr. Crease, those referred to as being located without an order of survey, and those surveyed at the times respectively, just before enumerated, stand upon like footings in the office of surveyor-general of Ark's with other New Madrid claims, and were regarded as valid as that is. They were so held and treated in the surveyor-general's office.

[And for want of further time the taking of depositions under this commission was postponed until to-morrow, the 11th of February, 1862.]

A. J. SMITH, *J. P.*

Examination resumed the 13 of February, 1862, (having been postponed on account of sickness of said deponent,) as follows:

Upon examination of the New Madrid papers, now before me, I find on the claim of John Dorlac, the original or location certificate No. 33 is missing from the files in that case, and was missing when said schedule was made. So far as the surveyor-general's office was concerned, that claim was treated as other claims of that character, and held without objection, so far as I know. I cannot account for the absence of said certificate, but suppose that it had been mislaid or lost by some mismanagement of the parties having control of the office.

Since the office of surveyor-general was established, say about the year 1833, there have been seven surveyor-generals of Arkansas. The papers of the office were transferred from the one to the other of these surveyor-generals, as they were appointed in succession. Since the year 1841 the office of surveyor-general and the papers of said office have been moved from house to house six times. The original location-certificate, as now on file among the New Madrid papers, is written on a piece of paper, single sheet, about the size of one-fourth of a sheet of letter paper. The survey now on file among the New Madrid papers, purporting to be the survey of James S. Conway, is written upon a piece of paper about the size of a half-sheet of letter paper. The paper is of light, thin texture, and bears a full resemblance to that paper upon which the descriptive notes that were made at St. Louis and brought here to the surveyor-general's office of Arkansas, with other papers from the surveyor-general's office of Missouri. The paper upon which this survey is written bears the water-mark of Patterson & Co., who, I suppose, were the manufacturers of the paper.

According to the practice of the surveyor-general's office, when I was clerk therein, if there was an original survey and resurvey on file in the office, and neither survey up to that time had been recorded, the resurvey would be recorded and the original one would not be recorded. I know James S. Conway, personally, and have frequently seen his signature on the maps, and have seen him write or sign his name one time, and I believe the signature to the survey made by said Conway, 16 July, 1820, which is now on file among the Langlois New Madrid papers, which I have frequently seen heretofore or before this time, marked Exhibit E, No. 1, and Exhibit No. 4 to the bill of complaint in this suit, is the genuine signature of James S. Conway. There are a great number of other papers of private surveys, having on their face the notes of survey, and a diagram at the corner of them similar to that one on which the survey of Hot Springs, by James S. Conway, has on it; and from this similarity I suppose the paper in question to be a genuine one.

From my opinion or belief the paper on which said survey is written, is the same kind upon which surveys were written, about the year 1820, in the office of surveyor-general of Missouri—I mean private surveys—

though I have never examined them so critically as I did the survey in question. From my knowledge of the books and papers that came into my hands, while performing the duties of a clerk in the surveyor-general's office of Arkansas, I became acquainted with the quality of paper used in the office of the surveyor-general of Missouri, sent to the surveyor-general's office of Arkansas. James S. Conway died some years since on Red River, in this State. I do not recollect the precise time. I know him to be a man of high moral sense, who would not commit a wrong wilfully. The paper purporting to be a survey by James S. Conway, is signed by him as deputy-surveyor, as other official papers are in the office of surveyor-general.

There are township plats on file in the office of auditor of public accounts of the State of Arkansas, formerly in the office of surveyor-general of Arkansas, which came from the office of the surveyor-general of St. Louis, Missouri, that were not signed by the surveyor-general, but by the deputy-surveyors, who surveyed the lands of such township. These plats were subsequently cancelled in the office of the surveyor-general of Arkansas, by the reconstruction of new township plats, which new plats were signed by the surveyor-general and not by the deputies.

[NOTE.—While said witness was testifying, said defendants William H. Gaines & others, objected to certain parts of his deposition, in answer to questions put to him, viz: The opinion of said witness respecting the validity of certain New Madrid claims, beginning with the words, "the claims referred to by me," and ending with the words, "so held and treated in the surveyor-general's office."

Also, his opinion as to the claim of John Dorlac, No. 33, beginning with the words, "So far as the surveyor-general's office was concerned," and ending with the words, "parties having control of the office."

Also, the opinion or belief of said witness, beginning with the words, "from my opinion or belief," and ending with the words "sent to the surveyor-general's office of Arkansas."

Also, the opinion of said witness respecting the late James S. Conway, beginning with the words, "I know him to be," and ending with the words, "a wrong wilfully." And reserved objections thereto, and desired the same to be noted, which is accordingly done.]

Attest: A. J. SMITH, *J. P.*

Cross-examined:

1. Did you not mean to state in reference to the orders of survey, that you were mistaken, if you testified before that the order of survey constituted a part of every New Madrid claim, but only me'nt to state what was the regular order of the papers?

Ans. There is no authority by which I could say that the order of survey constituted a part of any New Madrid claim, only in making the schedule and examining the papers of N. M. claims, I conceived it to be so, and upon this conception my former statement is based.

2d. Were the orders of survey always put or kept among the papers of the particular claim, or were they sometimes kept in the bundle of contracts & instructions?

Ans. The instructions or order of survey, dated the 12th of May, 1837, given by Ed. Cross, surveyor-general, to John C. Hale, to survey the lands about *and* Hot Springs, at the time of making schedule and examining after papers, I found filed, together with the contract of J. C. Hale for survey of public lands about the springs, dated 9th of
327 May, 1837, which was surveyed at the same time as the springs, and having found these papers together, I left them so, describ-

ing only the date and the names of contracting parties, as other contracts and instructions in that bundle were described, without looking at the substance of the paper.

3d. Does not said folio record, book A, contain a record of some private surveys made, or which appear to have been made or entered therein, at an early day, or soon after the establishment of said office of surveyor-general of Arkansas?

Ans. I thought that the recording of surveys of New Madrid claims was made only by Mr. Crease or Mr. Perry some time after 1843, but, upon examination of the book, I found that several of surveys of N. M. claims recorded before 1840.

4th. In regard to the claims spoken of by you as having no field-notes of survey, viz, Elizabeth Jones, certificate No. 140; Thomas Waters, certificate No. 172; O. St. Mary, certificate No. 468, and Francis St. Mary, certificate No. 472, do you not find, on examination thereof, that they appear to have been located on surveyed land, and that the application or notice of location in such instances, calls for a quarter-section or half-section of land, as the case may be, in township and range, according to the public surveys, and do not the notices of location in such cases bear indorsements, indicating that the same were laid down on the plats of the public surveys, and, in such cases, do not the notices of location appear to be recorded in said record-book A, of private surveys, the same as returns of survey?

Answer. I answer, yes.

5. When you spoke of the manner in which certain New Madrid claims were regarded in the surveyor-general's office, did you not also say that you did not hear anything said against their validity, and that no such question was made—the surveyor-general's office?

Answer. I answer, I did.

6. In regard to the claim of Dorlac, certificate No. 33, in which you say that the original or location certificate is missing, do you mean the usual certificate issued from the office of the recorder of land-titles at St. Louis, to the effect that the claimant was entitled to locate a certain quantity of land in lieu of that original, &c.?

Answer. I did.

7th. Please examine the field-notes of survey on file in said claim of Dorlac, certificate No. 33, and answer if said field-notes of survey does not contain the following endorsement, viz: "Surveyor's office, St. Louis, May 4th, 1820. I certify the within is a true copy of the survey on record in this office." Addressed to "Frederick Bates, esq., recorder of land-titles for the Missouri Territory." Also, "Recorded, book A, p. 56;" also, "A copy of the within survey was issued this 5th day of December, 1831." Certified as follows, viz: "Surveyor's office, St. Louis, 5th December, 1831. The above is a true copy of a plat and description of survey No. 2518 of 160 acres of land (under the N. M. certificate, No. 33,) on file in this office, and recorded in book A, p. 56. There are, however, two plats and descriptions of said survey on file, (apparently intended as duplicates and attested by the same signature,) one of them describes the position of the hickory witness-tree to the N. E. corner of the survey, to bear S. 50 E., instead of S. 50 W., as stated in the other, which is recorded and of which the above is a copy. The unrecorded plat, &c., of the survey, also describes the distance on the third corner of the meanders along Red River, to be 13.00 links, instead of 13.00 l'ks, as above written. Signed "W. McRee, sr. of pub. l'ds."

Answer. Said field-notes do contain these endorsements.

8th. Do not the foregoing endorsements indicate that said survey of

the Dorlac claim was recorded in the office of surveyor-general, at St. Louis, in book A, at page 56, in that office?

Answer. It does.

9th. Please examine a duplicate of said survey, on file among the papers of said claim, and state if the same is not recorded in book A, at page 92 of private surveys, in the surveyor-general's office, at Little Rock, and if the same is not indorsed as having been so recorded.

Answer. Yes.

10. In regard to the claim of Henry Cockerham, certificate No. 156, about which you testified as having been surveyed in May, 1839, does that survey appear to have been made by Charles E. Moore, D. S., under instructions or orders of survey issued in that year by Edward Cross, while surveyor-general?

I answer, yes; but the instructions were issued by David Fenter and not by Edward Cross.

11. Has the complainant in this case been claiming to be the owner, in whole or in part, of the land included in said Cockerham survey?

I heard something of it, but don't know anything of my own knowledge.

12. Were not the books and papers of said office of surveyor-general of Arkansas kept and carefully preserved in cases or boxes made for the purpose?

Answer. Previous to the time of William Pelham, the papers, not being very voluminous, were kept in a safe, about seven feet high and eight feet wide. In William Pelham's time the increase in the surveys of the public lands made it necessary to have cases made to contain the books and papers.

13. Are you aware of any of the books and papers of said office having been lost in consequence of any removal of the office from one house to another in the city of Little Rock?

Answer. I did not know of any papers being lost.

14. While you were connected with said office, did it not usually take several weeks to turn over the office from the old to the new surveyor-general when there was a change in that office, and did not the incoming surveyor-general receipt for the books and papers according a schedule made of them and certified by examination to be correct?

Answer. The practice was to turn over according to the schedule in the office, with such additional papers as had accumulated. The first complete schedule was the one made by me in 1849, and the practice was that of adding new papers to it. Sometimes the process of turning over took three or four days; sometimes about a week.

15. In every such case was not a duplicate of such schedule and receipt of the incoming surveyor-general attached thereto, made out and transmitted to Washington City?

I answer, yes.

16. As to practice of surveyor-general's office, to record a resurvey. and not the original survey, about which you were interrogated and testified, please state, if, according to the practice of said office, a resurvey was designed to be a retracing of the lines of a former survey, recognized by the office as having been made, but when the marks of survey might have become, from any cause, in whole or in part obliterated.

328 Answer. The cause of many resurveys being made in Ark's was the complaint of citizens not finding any marks of surveys of the lands which, upon representation to the General Land-Office, the resur-

veys were authorized, with instructions of tracing the old lines, noted in the original field-notes, as near as possibly could be done.

17. Were not any such resurveys occasionally needed to re-establish the old lines in prairies and the like, where the monuments were all artificial, such as stakes, mounds, or holes?

I answer, yes.

18. According to the practice in said office, when such resurveys were ordered, was not the deputy surveyor furnished with a copy of the field-notes of the former survey and instructions to trace the same according to the calls, bearings, and distances of the field-notes?

Answer. He was furnished with a sketch of the township plat of the old survey, having each corner of section and quarter-section, the bearing-trees and distances, indicating that corner on the ground, and also the distances of section lines, which was thought to be sufficient to enable him to retrace the former survey.

19. While you were a clerk in said office of surveyor-general, and previous to your getting the same in the year 1849, were there in said office, or of record therein, any field-notes of any survey of said Langlois New Madrid claim prior to that made by John C. Hale in 1838?

Answer. As stated in my former deposition, I do not know of any other survey being there.

20. Was not official plat of township 2 S., R. 19 W., including said private survey, made by John C. Hale, and showing its connections with the public surveys, protracted and constructed in said office of surveyor-general from the field-notes made and returned there by said Hale in the year 1838?

Answer. Yes; I know it was.

21. Please examine the paper, marked "Exhibit No. 4," purporting to be a copy of survey made by James S. Conway, and the paper, marked "Exhibit No. 6," to the bill in this case, purporting to be a copy of the survey made and returned by John C. Hale in 1838, and from the starting-points, bearings, distances, marks, and monuments called for by each, state whether one is a resurvey of the other, or are they different surveys.

Answer. I do not think, from what I see, that those lines trace one another.

22. Did you ever see said paper purporting to be field-notes of a survey made by J. S. Conway, 16th July, 1820, until after you had quit said office of surveyor-general, or after the year 1849.

Answer. I never saw said paper until I came back to the surveyor-general's office in Mr. Milbourne's time, about the year 1852.

23. Please examine the bundle, No. 205, of New Madrid claims, which have been shown to you, and state if you do not find some of the surveys in *in* such claims, or notices of location, where made by tracts according to the public surveys, written upon a sheet of paper—some upon a half sheet of paper, some upon letter-paper, some upon foolscap paper, and some upon thick or stiff paper, and some upon thin paper?

Answer. The paper upon which the diagrams and notes of surveys of New Madrid claims are made is of a compact texture, and generally used for making plats and sketches in the surveyor's office; some on half sheets and some on quarter sheets, with two exceptions of being written and drawn on foolscap letter-paper.

24. Do you find any one of such papers, either field-notes of survey or notices of location, written upon the same kind, quality, or texture of paper, or having the same marks as you have described respecting the

piece of paper upon which said field-notes of survey, purporting to have been made by J. S. Conway, are written?

Answer. In examining the papers to answer the question No. 23, I found that, in the claim of certificate No. 504, declaration of location is written upon a paper having the same water-mark of Patterson & Co. as that upon which the notes of survey, hot springs, are made, signed by James S. Conway, resembling it fully, only of thicker texture.

25. Was not the paper which you particularized, as being that upon which the descriptive notes made at St. Louis were written, a large folio paper, four times as large, or nearly so, as ordinary letter-paper?

Answer. Yes; folio-post sheets.

Question 6. Did you not also state in your examination-in-chief that you had seen a similar kind of folio paper in the register's office at Little Rock?

Answer. If I so stated, that was upon supposition that the register was furnished with such descriptive list as those mentioned by me, and that they were written on similar paper as in the office of the surveyor-general at St. Louis.

NOTE.—At the time said witness was giving his deposition, the complainant objected to the following interrogatories, to wit:

The whole of the first interrogatory.
The whole of the second interrogatory.
The whole of the 3d interrogatory.
The whole of the 8th interrogatory.
The whole of the 13th interrogatory.
The whole of the 16th interrogatory.
The whole of the 17th interrogatory.
The whole of the 20th interrogatory.
The whole of the 21st interrogatory.
The whole of the 26th interrogatory.

And reserved is objection thereto, and desired the same to be noted, which is accordingly done.

Attest: A. J. SMITH, *J. P.*

And for want of time the taking of depositions for this day was adjourned until to-morrow, 14th of February, 1862.

A. J. SMITH, *J. P.*

Examination of the witness resumed on this the 14th February, 1862.

A. J. SMITH, *J. P.*

Re-examined by complainant:

1. In handling the papers and making the schedule, in 1849, did you find in the office of surveyor-general any other orders of survey for survey the New Madrid claims in that office, except those mentioned in the schedule and now on file in the New Madrid bundle, No. 205, to wit, an order given by Cross to survey the Langlois claim, and those given by McRae to survey the claims of Benjamin Fay and Benjamin Dement?

(Objected to because leading.)

Answer. In making the schedule, in 1849, I found all papers of New Madrid claims in packages as they are at present, without any description of them except the certificates of the recorder, which I deem to be too general, and, as the papers were often referred to, I made de-
329 scription of every paper appended to the certificate, and the order of survey mentioned in the interrogatory of B. Fay and Demint were there found and described at the time. But, from the fact that the

order of survey of Edward Cross to J. C. Hale was not at the time with the New Madrid package, was not described there, but among the package of contracts and instructions only, by date and name of the parties being deemed not so important papers as N. M. claim, as to their being any other orders for surveys of N. M. claims in any other place than those described, I did not see any.

2d. You say that where New Madrid claims were located according to the public surveys, *that* there are no surveys made of said claims in many instances. Where a claim is thus located on half-sections or quarter-sections, are those claims thus located bounded on all sides by actual lines, measured and marked on the timber or are they bounded on some of the sides by imaginary lines, neither measured or marked on the timber; that is, measured and marked by authority of the Government?

Answer. The New Madrid claims located upon the lands surved by the deputy surveyor of public lands are, by the declaration of location of the claimant, half-sections or quarter-sections, as the case may be. Those located on two imaginary quarter-sections are bounded on three sides by the lines actually run and surveyed, and the other lines bounding the locations, which are marked in red ink on the maps, are only imaginary, and the survey completed by the individuals locating the claims themselves.

3d. Were these claims thus located without a surveyed boundary on the sides held and treated, in surveyor-general's office, while you were clerk therein, as valid locations?

(Objected to because leading.)

Answer. I don't know anything to the contrary.

4th. You say that the endorsements on the papers of the Dorlac claim indicate that the survey of that claim was recorded in the surveyor-general's office at St. Louis, book A, page 56, &c. Please examine the surveys pertaining to the other 22 New Madrid claims, now before you, and say whether from the indorsements or indications in said surveys they were recorded in the office of the surveyor-general at St. Louis, in said book A, or in any other book of that office; and, if so, state how many of said surveys appear so to have been recorded.

Answer. Out of nineteen New Madrid claims having surveys, I find only six of the surveys have an endorsement of being recorded in book A, at St. Louis, apparently the same as that referred to in my answer in the Dorlac claim. The other thirteen surveys have no endorsement or indications of their having been recorded in book A, at St. Louis, or any other book at St. Louis.

For want of further *the* time, the taking depositions in the case was adjourned until Monday, 17th Feb'y, 1862.

17th February, 1862.—Examination of the witness resumed according to adjournment.

5th. You say, in answer to the 13th cross-interrogatory of defendant Gaines, that you do not know of any papers being lost in moving the surveyor-general's office. Did you or did you not state in your examination-in-chief that the location certificate No. 33, in favor of John Dorlac, was now lost or missing from the files, and has been since 1849, when you prepared the schedule previously referred to? If so, do you say now that said certificate was not lost in removing said office from house to house, from St. Louis, Missouri, to Little Rock, Arkansas?

Answer. The certificate, No. 33, which is stated as missing in the schedule, was not on file in 1849, and how it was lost prior to 1849 is not within my knowledge.

No. 6. You say, in answer to the 14th cross-interrogatories, that the practice in turning over was to turn over according to the schedule in the office; that the first complete schedule was made in 1849. What was the practice previous to 1849, in regard to the New Madrid papers? Were they not transferred and receipted for as bundles, in this wise: "Bundle No. 205, containing papers of New Madrid claims located in Arkansas," without any examination of the particular papers in the bundle?

. The papers of New Madrid claims were delivered from one surveyor to his successor, according to schedule received from St. Louis, with the papers wherein the description and examination of the papers of N. M. claims, as near as I can recollect, was chiefly confined only to the location-certificates.

7th. You say, in answer to the sixteenth cross-interrogatory, that the cause of many resurveys being made in Arkansas, was the complaint of citizens not finding any marks of surveys of the lands, when resurveys were authorized, with instructions of tracing the old lines, &c. *It is* possible, in resurveying a tract of land, that the old lines be followed exactly, or the measurement with the claim come out precisely as it did in the old survey?

Answer. It is not impossible.

8. Is it usually done?

Answer. It is not usual.

9. In surveying a township of land into square sections, how often is it that surveyors make the exact closings? In other words, how much or on an average, in rough or mountainous country, will a surveyor fall short or go over in measuring a mile distant; that is, one side of a section?

Answer. From one chain to a chain and a half for one mile.

10. State what sort of country it is, if you know, over which the surveys of Conway & Hale, above referred to by you, runs, level or mountainous?

Answer. Mountainous and rocky.

11. State, if you know, what mode is adopted by surveyors in surveying mountainous regions, to make as near as possible correct measurement; that is, how is the chain held or adjusted in measurings?

Answer. In measuring the hilly country the chain-men are instructed to hold the chain in a manner so that the hind chain-man, raising the chain to a horizontal position, and the fore chain-man holds the chain at the point on the ground.

12. Does or does it not require great particularity and care to make correct surveys or measurement in this way?

Answer. It does.

13. Illustrate what a surveyor calls a close in measuring land, and what is not a close.

Answer. The close is that having already two sides of the square established, and being requisite to establish the two remaining sides, I run parallel to one side, measuring the same distance of my parallel established, and then run and measure parallel to another side established. If, at the end of the line thus run, I hit the end of the side of
330 the square more or less, within one hundred and fifty links in a mile, then it is a correct close.

14. In answer to cross-interrogatory No. 17, you say that resurveys were made praires, where the monuments were artificial, &c.; was there or was there not a number of surveys made on the timber-land also?

Answer. Yes.

15. How many times has township 2 S., R. 9 west been surveyed?

Answer. There are some townships near Clear Lake that have been surveyed three times, two of which was resurveyed.

16. Are these townships in timber-lands?

Answer. The notes of the survey show it to be timber-land.

17. Was or was not the township in which Little Rock is situated resurveyed; and, if so, when and for what cause?

Answer. The resurvey was made about the year 1854, under George Milbourn, as surveyor-general, because, as it was alleged, that some of the corners of the township were missing.

18. You say, in answer to cross-interrogatory No. 18, that it was the practice to furnish the deputy who made a resurvey, with field-notes of the former survey, and instructions; do you know anything about the practice of the surveyor-general's office previous to the time you were clerk therein?

Answer. The practice at the time of my being clerk, and previous to, in the office of surveyor-general, was to furnish deputy surveyors with all the notes of the townships, upon the boundaries of which they had to close.

19. Were you a clerk of that office or had you been when Hale resurveyed the hot springs under instructions from Cross?

Answer. I was not a clerk in that office when Edward Cross was surveyor-general, and had not been previous to that time.

20. You say, in answer to cross-interrogatory No. 23, that the papers upon which the diagrams and notes of New Madrid surveys are made, is of compact texture, and generally used for making plats and sketches in the surveyor's office; does it look like the paper that was used in the office of surveyor-general at St. Louis and sent to the office of surveyor-general at Little Rock?

(Objected to because leading.)

Answer. I presume so.

Recross-examination:

1. Do not the 19 New Madrid claims spoken of by you as having surveys, include those surveyed and returned after 1833, to the surveyor-general's office at Little Rock?

Answer. Yes; I believe so.

2d. In making resurveys would it be a difficult matter for a surveyor to retrace the old lines where they appeared plainly marked upon the ground?

Answer. Not difficult with the explanation that follows, to wit: The deputy surveyor being furnished with a description of corners at the ends of the lines that were to be retraced, their duty was to run straight lines between the corners given without reference to the blazes along the sides of the lines.

3d. In making resurveys are not the old lines of a former survey recognized by the officer, retraced, and corner re-established, and was that done by Allen Martin, in the case spoken of by you of the resurvey by him of the township in which Little Rock is situated?

Answer. It was done.

4th. Where surveys were made according to the practice of the surveyor-general's office, would not the deputy surveyor be furnished with field-notes, of any private surveys on file in the office, or recognized by it, and with which he would have to make corrections or close the same

as he would be furnished with field-notes of the lines of the public surveys of adjoining townships with which he would have to connect?

Answer. Yes.

IG. WILAMANICZ.

Depositions read on the part of complainant.

Depositions of GEORGE A. WORTHEN, taken on the 8th of February, A. D. 1862, who deposes and says:

I gave my deposition in this case on the part of the defendant Gaines and others, about the 30th of August, 1861. About the year 1841, I was at the residence of James S. Conway, at Magnet Cove, Hot Spring Co., Arkansas. I 'pressed my admiration of the locality and scenery around, and during my visit there I asked said Conway how he happened to find it, or secure a home in so desirable place. He told me that he had first seen the cove in 1820. I think he stated that the road or path on which he traveled was on the southern rim of the cove, whence he had a fine view of it, resolved to obtain possession of it. He stated at the same time that he was at the time on his way to make a survey of the hot springs, for which purpose he had been sent from St. Louis, Missouri, which he had done at that time. Whilst I do not recollect positively the words used by Gov. Conway, I think, he stated that he did the work as a surveyor, and the impression left on my mind is that he did the work in some official capacity, from the conversation between us. I am well acquainted with James S. Conway's signature and handwriting, having been for a number of years connected with the U. S. surveyor's office at Little Rock. I have also occasionally seen him write, but not very often, His signature is common among the records of the said surveyor's office. I have seen a paper, a copy of which, marked Exhibit No. 4, and now filed among the papers in the auditor's office, purporting to be a survey of the hot springs, referred to in the bill of complaint, as Exhibit E, No. 1. The original paper, of which this is a copy, is in the proper handwriting of James S. Conway, and is, I think, a genuine and not a spurious or counterfeit paper. This paper is also referred to in another place in said bill of complaint, as Exhibit A, No. 4, and the original paper purports to be a survey of hot springs, made by James S. Conway in 1820. The paper is drawn up in the usual style of surveys of the kind with the ordinary diagram of the tract surveyed. The paper and general appearance of the document indicate about the age of its date. It appears like an office-paper, more from the contents, signature, and style, than from the paper. The word paper here meaning the material, because the material would appear just the same, if kept safely, &c., out of the office. In expressing my opinion as to the official character of said paper, I suppose I am influenced by the fact that Conway had told me of the survey, & finding this paper in his handwriting, I concluded it was his official report.

I am, as stated in a former deposition in this case on the part of Gaines, familiar with the records and papers in the surveyor's office, having been for several years a clerk therein. I have examined bundle
331 No. 205, of papers belonging to the surveyor's office, now on file in the auditor's office, embracing 22 cases of New Madrid claims, and find orders from the surveyor-general for the survey of their New Madrid claims in but two instances; these are the instances of the surveyor-general to Allen Martin to survey the Fay claim, and those of E.

Gross, sur.-gen'l to John C. Hale, dep. sur., to survey the Hot Springs New Madrid claim.

I find none other either in the bundle or recorded in the schedule, connected with bundle No. 205.

I find, upon examination of said bundle of New Madrid claims, that in claim No. 33 the certificate is missing. This is the claim of John Dorlac, and the No. of the certificate is 33. This certificate was missing when the original schedule was prepared. It also appears from the schedule that when it was made in 1848, there were no orders of survey, or instructions to dep. surveyors, filed in this bundle, except that one in the case of Benjamin Fay.

This is the only authentic schedule of the books and papers of the surveyor's office now on file, and is the one relied on for contents of the office.

There have been seven different surveyors-general since the office was established at Little Rock, and the records of the office have been several times removed since that time. Beginning with the year 1840, the contents of the surveyor's office has been moved as many as seven different times.

Many of the official township plats on file among the papers of the surveyor's office are officially certified and signed by the deputy surveyors alone. Some have in addition the certificate of the surveyor-general; occasionally one is met with among the files without any authentication, because of the obliteration of the lines and corners in many of the public surveys. Many townships have been resurveyed.

The private surveys were recorded in a book kept for the purpose. A part of them were copied or recorded by Mr. John H. Crease, prior to the year 1849, but the precise time I do not know—not earlier, however, than 1843 or 1844.

The terms "private survey" embraced New Madrid claims, Spanish grants, and all surveys not embraced in the general survey of the public lands.

I have examined the New Madrid papers in the claim as follows, viz:

No. 504 was surveyed in 1830.
No. 158 " surveyed " 1831.
No. 236 " " " 1832.
No. 477 " " " 1833.
No. 156 " " " 1839.
No. 417 " " " 1823.
No. 207 " " " 1824.
No. 397 " " " 1824.

And find that they were severally surveyed at the dates stated in connection with the several numbers.

Some of the New Madrid claims have no field-notes of the surveys among them. The claim No. 140 has no survey among the papers on file. The same fact is true in New Madrid claim No. 172, no survey being on file in that case. While I was clerk in the surveyor's office the claim' above-described as surveyed, as well as those not surveyed, was recognized as valid and not spurious claims. So far as I know, all these claims occupied the same attitude, as far as relates to their validity. The claim recorded, above referred to, in the office of the surveyor-general, those surveyed as above stated, and those without surveys, so far as I am advised, occupied the same attitude. It might be proper to state here that I have, until recently, supposed all such claims had been surveyed.

NOTE.—At the time said witness was giving his depositions, the defendants, William H. Gaines, and others, heirs of L. Belding, objected to the testimony of said witness, about what James S. Conway said or told him, beginning with the words "I was at the residence," &c., and ending with the words, "from the conversation between us." And also to that part of the deposition of said witness, giving his opinion respecting a paper, a copy of which purports to be exhibited with said bill, marked Exhibit No. 4, beginning with the words, "The paper is drawn up," &c., and ending with the word, "I concluded it was his official report."

And also to that part of the deposition of said witness, expressing, directly or indirectly, his opinion respecting the validity or invalidity of certain New Madrid claims, beginning with the words "While I was clerk in the surveyor's office," and ending with the words "supposed all such claims had been surveyed," and reserved their objections thereto, and desired the same to be noted, which is done accordingly.

Attest: A. J. SMITH, *J. P.*

And the taking of the depositions not being completed for the want of time, the same is adjourned over until Monday next, at the same place and between the same hours.

Attest: A. J. SMITH, *J. P.*

Monday morning, February 10th, 1862, agreeably to adjournment, the parties met at the same place and between the same hours. The deposition of George A. Worthen, which was not concluded on the 8th inst., was continued as follows:

Cross-examined on behalf of Belding's heirs:

1. Is said paper now shown to you, as having been brought here in charge of a clerk from the auditor's office, and a copy of which has been referred to by you as Exhibit No. 4 to the bill of complaint in this case the same paper to which you have reference when you gave your deposition in the latter part of August or early part of September last?

It is the same paper.

2d. Please examine said paper and set forth in your answer hereto, the indorsements appearing thereon, and state if the same so copied by you are all the endorsements thereon.

The endorsements appearing on said paper are as follows, to wit:

1st. "Title-papers of Cockerham' claim."

2. "A plat of the Hot Springs."

3d. "SURVEYOR'S OFF'CE,
"*Little Rock, Ark's, 23d Sept.*, 1850.

"This paper and a duplicate of the same were left at this office to be filed with the papers of New Madrid claims, certificate No. 467, on the 18th of June, 1850, by Henry M. Rector, but are not of record here, nor known as constituting any part of the official papers connected with said claim. The duplicate was withdrawn by Henry M. Rector, on the 12th day of September, 1850.

"GEO. A. WORTHEN, *Ch'f Clk.*

332 The above, numbered 1, 2, & 3, are copies of all the endorsements on the paper referred to in the interrogatory.

3d. While you were clerk or chief clerk in the office of surveyor-gen-

eral, at Little Rock, was said paper ever regarded or treated as an official paper belonging to said office?

It was not.

4th. According to the usage or practice in said office of surveyor-general, was not the proper place for the instruction given to John C. Hale, deputy surveyor, dated the 12th of May, 1837, (being the same to which you have referred in your examination-in-chief,) in the bundle of contracts and instructions?

The proper place for such papers as that referred to in the interrogatory was the bundle of contracts and instructions; it was the practice to file all such papers in such bundles.

5th. Please turn to page 315 of said schedule of books and papers belonging to said office of surveyor-general (being the same shown to and referred to by you in your examination-in-chief) and set forth as your answer thereto what you there find respecting the contract with said John C. Hale, and instructions to him, under date of the 9th & 12th of May, 1837.

I find, on page 315 of the schedule referred to, the following papers, viz:

1st. May 9, 1837. Agreement between Edw'd Cross, sur. pub. l'ds in Ark., & John C. Hale, D. S.

2nd. May 9, 1837. John C. Hale's affidavit faithfully and impartially to execute the duties of D. S.

3d. May 9, 1837. Bond of John C. Hale and James S. Conway to the U. S. for $1,500.

4th. May 12, 1837. Instructions from Edward Cross, sur. pub. land in Ark's, to John C. Hale, D. S.

6th. Please state who were the different surveyor-generals of Arkansas since the office was established, and, as near as you can, how long each one continued in office, beginning with the first, and so on in order.

James S. Conway was the first surveyor-general, and continued in office about three years. Edward Cross was the next in order; David Fulton next, the last going out of office in 1841; William Pelham next, who held the office until 1849, when Lorenzo Gibson was appointed. He was followed by George Milbourne, in 1853, who gave place to Henry M. Rector on 1 April, 1855, who held the office until it was abolished, in 1858, when the books and papers were turned over to register, at Little Rock, and they were afterward, under a law of the legislature, placed in charge of auditor of the State of Ark's.

7. When you say the office and contents, &c., was removed several times, do you mean from one house or building to another, in the city of Little Rock?

I mean from house to house in the city of Little Rock.

8. Were not the records and papers of said office always, while you had any knowledge of it, carefully preserved in papers or boxes prepared for that purpose; and are you aware of any such record or paper ever having been lost from said office in consequence of the removal of the office from one building to another, or from any other cause?

The records and papers of said office were so kept. I am not aware of the records or papers having been lost.

9th. In whose possession was said papers before referred to, and a copy of which purports to be exhibited with said bill, marked "Exhibit A, No. 4," when you first saw it; and when was that?

In the hands of H. M. Rector, in 1850.

10. When you speak of private surveys recorded not earlier than 1843

or 1844, do you not mean those recorded by Mr. Crease, while he was a clerk in the surveyor-general's office at Little Rock?

I referred above to those recorded by Mr. John H. Crease.

11. Does not said folio record-book of private surveys contain some records of surveys of New Madrid claims made as early as 1816 and 1817, 1818, &c., and have the appearance of having been recorded therein at different times from the establishment of the office and prior to 1843?

The record-book A shows the fact that surveys made in 1816, 1867, 1818, were recorded at different times, from the establishment of the office up to 1843. I came to this conclusion from the appearance of the record and the clerk's recording them.

12. Is not the survey and return of the Langlois New Madrid claim, made by the said John C. Hale, in 1838, the only record of any survey of said claim contained in said book?

It is.

13. Where was the application or notice of location made in said claim No. 140, and does not the same call for 640 acres, to include the east half of section 7, & N. W. qr. of sect. 8, & the S. W. qr. of sec. 5, T. 19 S., R. 25 W., and is not the same indorsed as follows: "Laid down on maps?"

The application or notice of location made in claim 140 was made on the 25th April, 1823, and included the tracts of land described in the interrogatory, and is endorsed: "Laid down on the maps."

14. In regard to New Madrid claim on certificate No. 172, to which you have referred, please examine the papers and state were there not two applications or notices of locations of said certificate calling for an irregular survey of land on the Saline River, presented April 26th, 1819; and is not one of said applications endorsed, "Withdrawn," and the other, which purports to be amendatory of the former, endorsed "Withdrawn in consequence of its being in the country ceded to the Choctaw Indians;" and is there not another application or notice of location of said claim on file, dated April 14, 1823, calling for 480 acres of land, viz: S. E. qr. & N. E. qr. of sec. 36, & S. E. qr. of sec. 25, T. 19 S., R. 26. W. of 5 principal meridian; and is not said last-mentioned application or notice of location endorsed: "Laid down on map?"

I have examined the papers referred to in the interrogatory, and find the facts stated true, as enquired about.

[NOTE.—At the time said witness was giving his depositions, the complainant Henry M. Rector objected to the whole of the third interrogatory; and also to the following in the 5th interrogatory put by the defendant Gaines' attorney, "What you there find respecting the contract with said John C. Hale and instructions to him, under date of the 9th and 12th of May, 1837;" and the whole of interrogatory number thirteen; and reserved his objection thereto, and desired the same to be noted, which is done accordingly.

A. J. SMITH, *J. P.*]

Re-examined by plaintiff:

You say, in your answer put by defendant to cross-interrogatory No. 4, that "the proper place for such papers as that referred to was the bundle of contracts and instructions; it was the practice to file
333 all such papers in said bundle." By that do you mean to say that when the surveyor-general gave his deputy instructions to survey a private claim, *that* it was improper, according to your ideas of the practice, to file such instructions, so pertaining to the private claim, with the papers of that claim?

I speak of the practice as regards surveys generally. While I was connected with the surveyor's office, such papers were filed in bundles, containing contracts & instructions. I do not speak of the propriety or impropriety of filing instructions pertaining to private surveys with the papers of that claim. No such instructions were issued while I was in said office. I am clearly of opinion that the surveyor-general has a right to cause a paper to be filed in any bundle his judgment may dictate.

2nd. Do you know that the surveyor-gen'l, under whom you acted, or those in authority, or subsequent to your connection with said surveyor's office, gave instructions prohibiting the filing of said paper with the New Madrid bundle?

I do not.

You *gave*, in your answer to 7th interrogatory of defendant, that the papers of surveyor's office were moved from house to house in Little Rock. Were the' not moved also from St. Louis, Missouri; and, if so, when and where, to the best of your remembrance?

They were moved from St. Louis, Mo., to the town of Little Rock, Ark's, about the year 1833 or 1834.

You say, in your answer to the 8th interrogatory of defendant, that you are not "aware of the records or papers having been lost." How do you account for the absence of the original or location certificate from the bundle of papers pertaining to the claim of John Dorlac, No. 33?

I cannot account for the absence of the paper in question. It may have been lost or otherwise removed from the files; nor do I mean to say the loss of a paper impossible from that office. I know that while I was connected with that office, and control'ing it to some extent, no paper pertaining to the files of the office was permitted to be taken out upon any pretext whatever. It is also true that the care taken of papers in that office was unusual while I was there.

In your answer to the 12th interrogatory put by the defendant, you say that the Hale survey is the only survey of that claim contained in said book. What book do you mean?

I mean folio record, book A, wherein private surveys were usually recorded.

GEO. A. WORTHEN.

Deposition of JOHN R. CONWAY, taken on the 11th day of February, 1862, who deposes that:

I am a brother of James S. Conway, deceased, and am familiar with his handwriting. I have examined a paper now in file in the auditor's office, and formerly in the surveyor-general's office among the New Madrid papers of the Langlois claim, purporting to be a survey of said claim made by James S. Conway, deputy surveyor, on the 16th July, 1820, and believe, from the appearance of said paper and the handwriting and signature, that it is genuine writing and signature of said James S. Conway. James S. Conway was deputy surveyor by appointment from General William Rector, surveyor-general of the Territory of Illinois, Arkansas, and Missouri, at the time said survey bears date, to wit, 16th July, 1820, and previous to that time. I was residing in this State between the years 1834 and 1839, as did James S. Conway. I heard said James S. Conway, on several occasions, say that he had previously made a location or survey of the hot springs, in virtue of a New Madrid warrant or certificate, for and at the instance of Col. Elias Rector, formerly of Missouri, father of the complainant in this case.

[AND NOTE.—The defendant objected at the time said witness was testifying, to his making any statement in response to questions as to what said James S. Conway may have said, beginning with the words, "I heard said James S. Conway," &c., and ending with the words "complainant in this cause," and reserved their objections thereto, and desired the same to be noted, which is done accordingly.

Attest: A. J. SMITH, *J. P.*]

Cross-examined:

In speaking of said paper being in the handwriting of said James S. Conway, I refer to the face of said paper, and not to the indorsements on it. I speak of said paper being on file in the auditor's office, formerly the surveyor-general's office, from having seen said paper in the auditor's office a few days ago. I never saw it before. I think that may brother, James S. Conway, was the first surveyor-general of Arkansas. He continued to live in Arkansas until his death. I think he died in 1855 or 1856. I was in California at that time, where I had gone in 1849.

Re-examination on the part of complainant:

I have never examined the New Madrid papers pertaining to the location on the hot springs, until a few days since, when I saw them in the auditor's office, although I was a deputy surveyor for a good many years in Arkansas, and frequently in the surveyor-general's office of Arkansas, while I was acting as such deputy.

J. R. CONWAY.

STATE OF ARKANSAS, *set:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify that the above and foregoing fifty pages of manuscript, contain full and true copies of the depositions William Milburn, R. A. Calloway, Ignatius Willamowicz, George A. Worthen, and John R. Conway, as the same are found in the transcript of the case of W. H. Gaines et al. v. John C. Hale and Henry M. Rector, on appeal, and Henry M. Rector vs. John C. Hale, on cross-appeal from the Hot Spring circuit court to the supreme court of Arkansas, and now on file in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court at Little Rock, this 27th day of February, A. D. 1872.

[SEAL.] N. W. COX, *Clerk.*

Fee, for transcript, $18.00; paid by H. M. Rector.

334 *Deposition of F. R. Conway, for claimant, taken at Columbia, Boone County, Missouri, on the 28th day of October*, 1872.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Frederick R. Conway; am not engaged in any business at present. I am seventy-three years of age. My place of residence, for the past year and at present, is the county of Boone and State of Missouri. I have no interest, direct or indirect, in the claim which is the subject of inquiry. I am first cousin to the claimant, Henry M. Rector.

Being interrogated by Henry M. Rector, the claimant, the witness says:

I gave testimony touching the claim in controversy about the 28th day of May, 1855. In the year 1820, and previous thereto, I was a clerk in the surveyor-general's office in Saint Louis, Missouri. I was present in the surveyor-general's office in Saint Louis, Missouri, when Elias Rector, the father of the claimant, filed his written application to locate the hot springs, in Arkansas, with a New Madrid warrant, or certificate of new location.

Interrogatory by claimant. Was or was not the location to be made in a square form, and, relatively, how were the springs to be situated in that square?

Answer. In the conversation which I heard between said Elias Rector and the surveyor-general, at the time he presented his application to locate the hot springs claim, said Rector stated that he wanted the location made in a square form, and so that the main hot springs should be in the center of the tract, or as near thereto as practicable.

(The above and foregoing interrogatory, and the answer thereto objected by the attorney for the United States.)

Witness further states that he had a brother, named James S. Conway, who was a deputy-surveyor of the United States for the district composed of the States of Illinois, Missouri, and Arkansas, in the year 1820, and previous thereto.

Interrogatory by Henry M. Rector, claimant. Did your brother, James S. Conway, deputy-surveyor, as such deputy-surveyor of the United States, receive instructions from William Rector, surveyor-general of the United States, to make an actual survey, and locate the New Madrid warrant above referred to, on the hot springs of Arkansas? If so, what do you know that your brother James did in reference to making this location?

Answer. I know that my brother, as deputy surveyor, did receive instructions from William Rector, surveyor-general of the United States; that he did make a survey under the application of Elias Rector aforesaid, and that he did return said survey to the surveyor-general's office; that witness, his brother, James S. Conway, Elias Rector, and the surveyor-general were present when said survey was returned to the surveyor-general's office, and approved; said Elias Rector stating at the time that had he known at the time he made his application the situation of the hot springs, he might have so located his claim as to include the springs and take in a portion of great deal better lands.

(The above and foregoing interrogatory and the answer thereto objected to by James H. Moss, attorney for the United States.)

Deponent further says that it was the uniform custom for the locators of these claims to pay the deputy-surveyors for the execution of these surveys.

Interrogatory by the claimant, Henry M. Rector. Is it your impression and recollection that Elias Rector paid your brother for making this survey?

Answer. It is my impression and belief that Elias Rector did pay my brother for making said survey.

(The above and foregoing interrogatory and the answer thereto is objected to by the attorney for the United States.)

Deponent further states that, to have made the survey in question under the circumstances and at the time, one hundred dollars would not have been more than a reasonable compensation. It would have been worth much more if my brother had gone to the hot springs to

make this special survey only from Saint Louis; but, being engaged at the time in surveying the Territory of Arkansas, he could afford to have made the survey for less money. According to custom and practice these locations were made in the surveyor-general's office; never knew of such locations being made in any other office.

Interrogatory by claimant. According to the custom and practice of land-offices, was the application and the survey made under the application held by the officers of the Government as constituting the location?

Answer. Such was my understanding.

(The above and foregoing interrogatory and the answer thereto objected to by the attorney for the United States.)

Interrogatory by claimant. Whilst you were United States recorder of land-titles, did you or did you not issue patent certificates upon New Madrid locations which were not returned to your office of recorder until long subsequent to the year 1823; and, if so, were these claims objected to on that account by the Government?

Answer. I did, and never knew of any objections to those certificates on that account.

(The above interrogatory and the answer thereto objected to by the attorney present for the United States.)

Deponent further says that, in the instances referred to, the application and the survey, when necessary, had been made long previous to the filing of the papers in the recorder's office. Deponent's familiarity with the customs and practices of the land-offices arises from the facts that, as early as 1819, he was a deputy surveyor and a clerk in the surveyor-general's office of Missouri; subsequently, from 1830 to 1845, was United States recorder of land-titles in Missouri, and from 1845 to 1849 witness was surveyor-general of Illinois and Missouri. Elias Rector, the locator of this claim, died in Saint Louis about the year 1822. Henry M. Rector is the only surviving child of said Elias Rector, deceased, and is the claimant in this cause. Previous to the year 1835, the claimant, Henry M. Rector, was a minor and resided with his mother in Howard County, Missouri, and that soon after that he went to Arkansas to prosecute his father's claim to the hot springs. Deponent states that about the year 1833 his brother, James S. Conway, was appointed surveyor-general of Arkansas, and that the books, maps, records, and papers, including private land-claims pertaining to said district, were turned over by me to my brother as such surveyor-general, and his receipt taken therefor. Deponent delivered said books, records, &c., to his brother by authority of the surveyor-general of Missouri.

Interrogatory by claimant. Were the papers pertaining to this New Madrid location sent with the other papers and records to Arkansas from Saint Louis?

335 Answer. I presume that all the papers pertaining to land-claims in Arkansas were sent, and that the record-books pertaining to said claims were also sent, except in cases where such books contained matters pertaining both to lands in Arkansas and Missouri, and in such cases transcripts, duly certified, of portions pertaining to Arkansas were made and afterward sent.

(The above interrogatory and the answer thereto objected to by the attorney for the United States.)

Interrogatory by claimant. Where a party was the owner of land or lots in the injured district of New Madrid, what was the first step necessary to be taken by him to make a new location?

Answer. The first step necessary was for the claimant to come before the recorder of land-titles with proof of his title, and that his lands had

been materially injured by the earthquakes; whereupon, if such proof was satisfactory, the recorder issued to the claimant a certificate of new location for a like quantity of land to that injured, the claimant relinquishing to the United States his title to the injured lands. Where the location was made upon surveyed lands, the claimant would go to the surveyor-general's office and file with him a written application, designating the tract of land he wished to locate; whereupon the surveyor-general would mark down upon the plats the location thus made by colored lines, with the name of the claimant and the number of the certificate, making a diagram of the location, which was at once forwarded to the register of lands of the district in which the land so located was situated and offered for sale, the object being to notify the register that said lands were no longer open for sale.

(The above and foregoing interrogatory and the answer thereto objected to by the attorney for the United States.)

Interrogatory by claimant. According to the usages and customs of the surveyor-general's office, what steps were taken by the holder of a New Madrid warrant who wanted to locate upon unsurveyed lands?

Answer. The claimant filed in the surveyor-general's office a written application, describing the land as well as he could by natural objects that he wished to locate, with a prayer embodied in said application that the surveyor-general have a survey made accordingly, at the same time depositing with the surveyor-general his certificate of new location. This application was filed in the office of the surveyor-general, and thereupon the surveyor-general ordered some one of his deputies to make said survey and return the same to his office. Subsequently, and so soon as the adjacent public lands were surveyed, the surveyor-general made out a connected plat showing the private claim and the public surveys, with a copy of the field-notes of said private claim, and transmitted the same to the recorder of land-titles, upon which the recorder would issue a patent certificate. Upon the transmission of the aforesaid papers to the General Land-Office a patent issued.

(The above and foregoing interrogatory and the answer thereto are objected by the attorney for the United States.)

Interrogatory by claimant. Was the application to locate, that you speak of—the location-certificate that you refer to—and the survey made by the deputy, each and all of them, retained by the surveyor-general in his office; or were they by him in any instance sent to the recorder's office?

Answer. They were all retained in the surveyor-general's office. The surveyor-general only sent a copy of the original survey to the recorder.

(The above and foregoing interrogatory, and the answer thereto, is objected to by the attorney for the United States.)

Deponent further states that, from the year 1818 to 1838, the offices of surveyor-general of Missouri and recorder of land-titles were both kept in Saint Louis, and a short distance apart. The most of the patent-certificates were issued by my predecessors before I was appointed recorder, and there were altogether about five hundred and sixteen. There were some twelve or fifteen of these surveys of locations returned to me after I was appointed recorder. During the early portion of my term as recorder of land-titles, I followed the example of my predecessors and did not record the surveys sent to me by the surveyor-general of these New Madrid locations. Frederick Bates and Theodore Hunt *who* were my predecessors in this office, and they did not record those surveys at all.

Deponent, further answering, states that the time was not noted in the recorder's office when New Madrid papers were received by the recorder from the surveyor-general, nor did he note the date that he recorded the surveys in said office, nor the date when I delivered the patent-certificate to the claimant. Said certificate was numbered and dated.

The paper hereto attached, marked "Exhibit A," was produced to deponent, who states that he has no personal knowledge of the same, but is informed that the same is a photograph copy taken from an original in the Land Department in Washington City, and can only say about this paper, (Exhibit A,) that the handwriting of the survey, dated 16th of July, 1820, looks like the handwriting of my brother, James S. Conway, with whose handwriting I was perfectly familiar, having seen him write repeatedly. The body of the paper looks like his handwriting, and also the signature. My own signature found on this paper (Exhibit A) looks perfectly natural; also, that of my brother, Elias N. Conway, on the same paper, looks natural and like his genuine signature. This Exhibit A is now before me, and I have examined it critically. When the surveyor-general returned to the recorder a survey, showing the location of a New Madrid warrant, that survey was not questioned or inquired into by the recorder as to its correctness, and the recorder issued the patent-certificate accordingly, unless there was some discrepancy between the survey and the registry of certificates of new locations issued by the recorder, under the act of February 17, 1815. I mean to say that if upon examination I found that the name of the claimant, the number of the warrant, and the quantity of land corresponded with the registry in my office, I then issued the patent-certificate.

Interrogatory by claimant. State whether, from the plats, records, and papers in the recorder's office, he, the recorder, could have located a New Madrid warrant in his office.

Answer. There were no plats of public surveys in the office, nor was there any connected plats of private claims showing the connection with the public surveys; can't, therefore, see that it was possible for the recorder to have made a location of a New Madrid warrant in his office.

(The above and foregoing interrogatory, and the answer thereto, objected to by the attorney for the United States.)

Being cross-examined by James H. Moss, esq., attorney for the United States, the witness says:

I did not make, at the time of their occurrence, any private memoranda of the facts to which I have testified. At the time the
336 conversation occurred between Elias Rector, the father of the claimant, and the surveyor-general before mentioned, witness was acting as a clerk in the office, and the conversation referred to occurred in the room where witness was engaged in writing. Witness stopped writing while the conversation was going on, and his attention was especially directed to it. It was the invariable custom, as far as witness is advised, in the surveyor-general's office, where a private survey was to made, for the surveyor-general to give the deputy surveyor written instructions in regard thereto. I never saw the written instructions given to my brother in regard to making the survey in this particular case. When the papers in this particular case were prepared for him they were handed to my brother, who was waiting for them, and he took them and left for Arkansas. I have no personal knowledge that Elias

Rector, the father of the claimant, ever paid my brother for making the survey in question. Witness was present at the time, or immediately after the survey in question was returned, and when the conversation, testified to in *my* examination-in-chief, between *my* brother, Elias Rector, and the surveyor-general occurred.

Deponent, in his estimate of the value of his brother's services in making the survey in question, predicates it upon the hypothesis that his brother had to go the distance of one hundred miles from the point where he was engaged on the public work to make said survey. Witness does not know of any public survey being made at that time nearer than one hundred miles of the hot springs. At the time witness turned over the papers to his brother, mentioned in his examination-in-chief, they were put up in bundles and boxed up, and he did not see any of the papers so turned over. Witness has had no conversation with the claimant in regard to the facts to which he has testified before the making of this deposition, nor has his memory in regard thereto been refreshed by any such conversation. Had some general conversation with claimant, but not of a character to refresh my memory as to the points testified to.

Re-examined by Henry M. Rector, claimant:

Deponent did not see the money paid to his brother by Elias Rector for making the survey in question, but always understood and believed that it was so paid. In making these New Madrid locations, where the surveyor-general did make out and deliver to the deputy-surveyor, who was to survey the locations, a copy of the application filed with the surveyor-general, and deliver that copy to the deputy, that would be regarded as sufficient authority to govern him in making the survey.

Recross-examined by James A. Moss for the United States:

It was the universal custom for the party having a survey made, under a New Madrid location, to pay the deputy-surveyor for making such survey, and Elias Rector was full-handed at the time, and able to pay for making the survey, and, as far as I know, met his liabilities promptly; and if the payment had not been made, I am very certain I would have heard of it from my brother; can't remember any other reason now for the impression and belief that Elias Rector paid my brother for making the survey in question.

Re-examination by Henry M. Rector, claimant:

It is fifty-two years ago since this transaction occurred. It is possible that there are facts and circumstances connected with the payment to my brother by Elias Rector for making the survey in question that have escaped my memory.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not, that I now recollect.

F. R. CONWAY.

Sworn to and subscribed before me this 28th day of October, 1872.

O. GUITAR,
United States Commissioner.

Exhibit A to deposition of F. R. Conway.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
September 24, 1872.

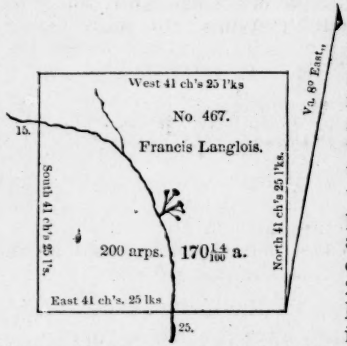
I, Willis Drummond, Commissioner of the General Land-Office, do

hereby certify that the annexed plat of survey, No. 2903, and certificate No. 467, signed by James S. Conway, and dated July 16, 1820; the affidavits of F. R. Conway, Ignatius Milmouvz, John Hutt, C. Langtree, J. H. Creada, Jno. M. Harrell, Wm. H. Causin, and William Milburn, together with the accompanying jurats, are a true and literal exemplification of papers now on file in this Office, save and except indorsements on the back of said affidavits, as follows, to wit: "(F) survey of 1820 & 7 affidavits;" and "(4) (B) 1st, Conway's original survey; 2nd, depositions of clerks in the office of surveyor-gen'l."

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WILLIS DRUMMOND,
Commissioner of the General Land-Office.



Survey No. 2903. Certificate No. 467. Surveyed for Francis Langlois or his legal representatives, 200 arpents of land located by virtue of a New Madrid certificate. Beginning at a post from which a pine, 10 inches in diameter (marked thus: H. & R.,) bears S. 47° E., 8 links; thence south, 7 ch's, a creek 15 links wide runs east, at 41 ch's 25 l'ks, set a post, from which a pine 15 inches in diameter bears N. 47½° E., 23 links; thence east 19 ch's 25 l'ks to Hot Spring Creek 25 l'ks wide, runs south at 41 ch's 25 l'ks; set a post from which a P. oak 10 inches in diameter, bears S. 84° E., 6 links; thence north, at 41 ch's, 25 l'ks set a post from which a red-oak, 6 inches in diameter, bears S. 62° W., 16 links; thence west 41 ch's & 25 links to the beginning.

JAMES S. CONWAY,
D. Surveyor.

JULY 16TH, 1820.

G. L. O. Copy of this paper sent to A. H. Lawrence, by direction of the Sec'y Interior. (See his note herewith, 6th Dec., 1855.) N. V. C.

337 (Indorsed:) Marked "Exhibit A," by O. Guitar, U. S. commissioner. 6245. H. M. Rector vs. The United States. Exhibit A, attached to deposition of F. R. Conway, for cl'm't. Filed Nov. 6, 1872. J. R.

STATE OF MISSOURI,
County of St. Louis:

Frederick R. Conway, being first duly sworn, deposes and says that the plat and survey hereto attatched, of the Langlois New Madrid claim, located on the hot springs, in Arkansas, is signed in the handwriting of the late James S. Conway.

And that he believes that the p'att is one of the triplicates made out by his brother and returned to the surveyor's office in 1820; that has acted as surveyor-general and recorder of land-titles in Missouri, and that by the practice of those offices when a survey was made and approved by the surveyor-gen'l the location became valid; the recorder

subsequently issuing the pattent-certificate whene'er the surveyor-gen'l returned the papers to his office; but the return of the surveyor to the recorder was not, in point of time, considered as materially affecting the validity of the claim. Many of the pattent-certificates to these claims was issued subsequent to the time prescribed for the location of such claims by the act of 1822, & they were not objected to on that account that I ever heard of at the Departments at Washington.

F. R. CONWAY.

MISSOURI DISTRICT, *sct:*

I, Benjamin F. Hickman, clerk of the circuit court of the United States for the district of Missouri, do hereby certify that the foregoing affidavit was subscribed and sworn to before me by F. R. Conway, on this 3d day of October, 1855.

In testimony whereof I hereunto subscribe my name and affix the seal of said court at office, in the city of St. Louis, the date above written.

[SEAL.] BEN. F. HICKMAN, *Clk.*

(Indorsed:) 8. (D. B.) 7th. F. R. Conway's aff't, 3 Oct., 1855. In this is the original paper signed by James Conway, July 16, 1820. No. 135.

STATE OF ARKANSAS,
County of Pulaski:

The undersigned, now employed as clerks or assistants in the office of the surveyor-general at Little Rock, state that the late governor, James S. Conway, having been surveyor-general for the district of Arkansas, and as such surveyor-general, and as deputy-surveyor has left his signature and handwriting in many instances of record in this, the surveyor's office, at Little Rock, and, from a personal inspection at the date hereof, and long familiarity on the part of some of us, of his, the said Conway's, handwriting and signature, we do not hesitate to say that the handwriting and signature exhibited on the foregoing and attached survey of the hot springs, is the handwriting and signature of the aforesaid James S. ; and we also state that we have examined and compared the appended paper with the duplicate now on file in this office, and that they appear to be identical in handwriting, design, and execution.

IGNATIUS WILAMONICZ,
Clerk in Sur. Office from 1840.
JOHN HUTT.
C. LANGTREE,
Clerk in Sur.'s Office since 1839.
J. H. CREADA.
JNO. M. HARRELL.
WM. H. CAUSIN.

Sworn to and subscribed before me this 11th June, 1855.

JAMES A. HUTCHINGS, *J. P.*

STATE OF ARKANSAS:

I, Elias N. Conway, governor of the State of Arkansas, and keeper of the seal thereof, do hereby certify that James A. Hutchings, whose name is signed to the annexed instrument of writing, was, at the time

of signing the same, a justice of the peace in and for the county of Pulaski, in said State, duly commissioned according to law, and that his attestation is in due form.

[SEAL.] In testimony whereof I have hereunto set my hand and caused the seal of said State to be affixed, at Little Rock, on the 23rd day of September, A. D. 1855, and of the Independence of the United States the 80th year.

ELIAS N. CONWAY.

By the governor:
D. B. GREER,
Secretary of State.

STATE OF MISSOURI,
County of Saint Louis, ss:

William Milburn, being duly sworn, deposeth & sayeth that, from the fall of 1816 to the spring of 1839, he was engaged as clerk in the surveyor-general's office at Saint Louis, the most of the time, and when not so engaged he was employed as U. S. deputy-surveyor under said officer; and from the spring of 1839 to the summer of 1841 he was U. S. surveyor-general for Illinois and Missouri. He was clerk in the aforesaid office in 1820, and knows that James S. Conway did, in that year, execute a survey for Francis Langlois or his legal representatives under New Madrid, certificate No. 467, so as to include the hot springs called the "Wachita hot springs," in the then Territory of Arkansas. This survey was executed by Conway, under the authority of an order of survey from the then U. S. surveyor-general; and I know that Conway returned to the surveyor-general's office, in 1820, triplicate copies of his survey; and I know that the plat, field-notes, and signature thereto, of survey No. 2903, purporting to have been made for Francis Langlois or his legal representatives, and dated July 16th, 1820, are all in the proper handwriting of the said James S. Conway, who was then a duly appointed & qualified deputy-surveyor for the district then composed of Illinois, Missouri, & Arkansas. The said plat and field-notes, & signature are attached hereto. The said survey, No. 2903, was approved by the surveyor-general, but was not recorded before the transmission of the papers to the Arkansas office, upon Arkansas being created a separate district, because the immediately-adjoining county
338 had not been laid off into sections & townships, and therefore the exact position of the survey with reference to the section-lines could not be given; and according to the practice of the office, when the survey was returned and approved the location was considered full and complete.

WILLIAM MILBURN.

Sworn to and subscribed before me this 3rd day of October, A. D. 1855.

Witness my hand and the seal of the Saint Louis circuit court, at office in the city of St. Louis, the day and date last aforesaid.

[SEAL.] WM. J. HAMMOND, *Clk.*

Deposition of Ernest H. Hesse, for claimant, taken at Saint Louis, Missouri, on the 6th day of December, 1872.

Interrogatory 1, by commissioner. State your name, your occupation, your age, your place of residence; whether you have or not, and, if any, what, interest, direct or indirect, in the claim which is the subject of

inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Ernest H. Hesse. I am the custodian of the archives of the United States surveys of Missouri, and deputy-recorder under Stillman O. Fish, recorder of land-titles of the United States in Missouri. My age is twenty-seven years. I reside in Elleardsville, Saint Louis County, Missouri. I have no interest, direct or direct, in the claim which is the subject of inquiry in this suit. I am in no degree related to the claimant.

Interrogatory 2. How long have you been acting as custodian of the archives of the United States surveys of Missouri and deputy-recorder of land-titles?

Answer. Since the 15th of May, A. D. 1868.

Interrogatory 3. Are you a practical surveyor?

Answer. Yes, sir.

Interrogatory 4. Has your connection with those offices of recorder and surveyor given you a familiarity with the records of those offices?

Answer. Yes, sir; they have.

Interrogatory 5. State whether or not the original public surveys and surveys of Spanish grants and New Madrid locations are now on file among the public archives of the late *office of* surveyor-general's office of Missouri?

Answer. They are.

Interrogatory 6. Can you state the number of New Madrid locations now on file in the late office of surveyor-general of Missouri, and in what State they are located, whether in Arkansas or Missouri?

Answer. There are five hundred and sixteen New Madrid locations in all on file in the late surveyor-general's office, of which there are four hundred and ninety-five in Missouri and twenty-one in Arkansas.

Interrogatory 7. State whether or not you find recorded in the late office of surveyor-general of Missouri an application signed by Samuel Hammond and Elias Rector, and addressed to the surveyor-general of Missouri, to locate the Ouchita hot springs of Arkansas with a New Madrid warrant, issued in the name of Francis Langlois, number 467, for two hundred arpents of land.

Answer. I find such an application recorded.

Interrogatory 8. State the date of that application.

Answer. It is dated on the 27th of January, 1819.

Interrogatory 9. State whether or not in the late office of surveyor-general of Missouri there is a register or schedule, sometimes called an exhibit, of all New Madrid warrants located with the surveyor-general of Missouri.

Answer. There is.

Interrogatory 10. State whether or not there is on this schedule or exhibit any reference to a New Madrid certificate of location or warrant, issued in the name of Francis Langlois, number 467, for two hundred arpents of land.

Answer. There is a reference to that effect.

Interrogatory 11. Give the reference in words and figures, as they appear on that schedule.

(Objected to by H. M. Post, counsel for the United States, as incompetent, as being oral proof of written records.)

Answer. It appears as follows: Number of certificate 467. Name of the claimants and confirmee, Francis Langlois, senior. Date of issue of certificate, 26th November, 1818. Date of location of certificate, 27th of January, 1819. Date of act confirming the original claim and refer-

ence to previous exhibits, 2d of March, 1805. Number 1076 of Exhibit A. Survey, 2903. Township . Range . Quantity given in the certificate and contained in the survey, two hundred arpents. Date of execution of survey . Date of return to the recorder . Reference to books in the recorder's office. Testimony, page 75. Remarks, located in Arkansas, to cover "hot springs." Certificate Nos. 270, 271, 467, and 470; make up six hundred and forty acres.

Interrogatory 12. Make certified copy of such portion of said schedule or exhibit as relates to this location, as provided by laws of the United States, and furnish it to the commissioner, to be attached to this deposition.

Answer. Exhibit A, attached to this deposition, is a copy of that portion of the schedule.

Interrogatory 13. State whether or not any of the New Madrid locations were surveyed subsequent the month of April, 1823.

Answer. There are some surveyed after the month of April, 1823.

Interrogatory 14. How many?

Answer. Seventy-seven in number, according to the records of the surveyor's office, and I hereto attach Exhibit E, showing the number of the survey, date of survey, names of claimants; the same being a correct extract from the records in my charge.

Interrogatory 15. State whether or not, according to the records of your office of custodian of the archives of the late office of surveyor-general of Missouri, and of the office of recorder of land-titles in Missouri, the locations specified in Exhibit B, where the surveys were made subsequent to April, 1823, stand upon the same footing as the locations the surveys whereof were made prior to that date, or upon a different footing.

Answer. I find nothing in my office nor in the office of recorder of land-titles that distinguishes those locations the surveys whereof were made subsequent to the month of April, 1823, from those locations the surveys whereof were made prior to April, 1823.

Interrogatory 16. State whether or not these locations the surveys whereof were made subsequent to April, 1823, have been considered and are held and treated in these offices of late surveyor-general and recorder of land-titles as valid and binding locations.

(Objected to by counsel for United States as incompetent.)

339 Answer. They are regarded by myself and by the recorder of land-titles as valid. We always issue patent certificates for New Madrid locations the surveys whereof have been made subsequent to 1823.

(Answer objected to by counsel for United States as incompetent.)

Interrogatory 17. What papers do you find in the late office of surveyor-general of Missouri pertaining to each New Madrid location as a series?

Answer. As a series, I find first the New Madrid certificate or warrant issued by the recorder of land-titles in lieu of the tract of land injured by earthquakes; second, application by the claimant or his legal representatives to the surveyor-general for the location of said warrant or certificate; and third, the plat and description of said survey of New Madrid locations. These are all the papers I find as a series in the late office of surveyor-general.

Interrogatory 18. State whether or not you find, on looking over your records and files, there has been a resurvey or more than one survey in locating these New Madrid warrants.

Answer. There have in numerous instances been resurveys of these locations, and in some cases more than one resurvey.

Interrogatory 19. From the files and records of the office of recorder of land-titles in Missouri, how many of these New Madrid claims or locations are there in all?

Answer. There are five hundred and sixteen New Madrid locations in all.

Interrogatory 20. Upon how many of these have patent-certificates been issued?

Answer. There have been patent-certificates issued on five hundred and one.

Interrogatory 21. State whether or not any of the original surveys made by or under the direction of the surveyor-general in locating these claims or warrants are now on file in the office of recorder of land-titles in Missouri.

Answer. There are none of the original surveys on file in the recorder's office.

Interrogatory 22. Are there any copies of said originals on file in the recorder's office?

Answer. There are none.

Interrogatory 23. State whether or not any of these surveys are recorded in that office.

Answer. There are one hundred and fourteen surveys of New Madrid locations recorded in that office, out of the five hundred and sixteen locations.

Interrogatory 24. By which of the recorders of that office were these surveys recorded?

Answer. They were recorded by the recorders F. R. Conway and Adolph Renard.

Interrogatory 25. State, if you know, who were the incumbents of that office antecedent to the appointment of Conway and subsequent to that of Renard.

Answer. The incumbents of the office antecedent to the term of Conway were Frederick Bates, Theodore Hunt, Spencer, in the order named; and, subsequent to Renard, there *was* Thomas S. Nelson, Frederick Mosberger, Albert Sigel, and Stillman O. Fish, in the order given.

Interrogatory 26. State whether or not, if you know, from the examination of the records of the office of recorder of land-titles, any surveys were recorded in said recorder's office of New Madrid locations by Bates, Hunt, or Spencer, or whether any recorder since Renard recorded any of these surveys.

Answer. There were no surveys of New Madrid locations recorded by any of the recorders above named, excepting those by Conway and Renard. Renard was the successor of Conway in the office.

Interrogatory 27. State, if you know, any instances where patents have been issued upon surveys obtained from the office of the late surveyor-general, which surveys were never returned to the office of recorder of land-titles.

Answer. I know of cases where patents have issued upon patent-certificates, the accompanying surveys of which were obtained from the records of the surveyor-general's office, there being no evidence on file that said surveys had ever been returned to the office of recorder of land-titles.

(Objected to by counsel for the United States as incompetent and irrelevant.)

Interrogatory 28. State whether the records and files of the office of

recorder of land-titles show when surveys of New Madrid locations were received from the surveyor-general and filed with the recorder.

Answer. There is nothing on the files of the recorder's office to show when they were received or filed by the recorder.

Interrogatory 29. State whether or not the records of your office show that any surveys founded on New Madrid locations were returned by the surveyor-general to the recorder of land-titles subsequent to the year 1838.

Answer. The records show numerous cases that have been returned subsequent to 1838.

Interrogatory 30. What is the number of cases that you find so returned?

Answer. There appear 55 such cases.

(Last two questions and answers are objected to by counsel for the United States as incompetent and irrelevant.)

On the 5th day of December, A. D. 1872, by consent of parties and counsel, the further examination of the witness Ernest H. Hesse was postponed to the 6th day of December, 1872. (See notice of adjournment at close of testimony of H. M. Rector, jr.)

GEORGE DENISON,
Commissioner.

On the 6th day of December, 1872, present, H. M. Post, counsel for the United States, and Henry M. Rector, claimant, who examined the witness, I proceeded with the taking of the deposition of Ernest H. Hesse, as follows:

GEORGE DENISON,
Commissioner of the Court of Claims.

Interrogatory 31. State, if you know, of the five hundred and sixteen New Madrid locations which you have referred to above, how many of the surveys of those locations were returned by the surveyors-general of Missouri, out of the surveyors' office, to the office of recorder of land-titles subsequent to the month of April, A. D. 1823.

Answer. From the schedule or exhibit referred to in the foregoing, there appear one hundred and forty-two surveys of New Madrid locations to be returned by the surveyor-general to the recorder of land-titles subsequent to the month of April, 1823.

Interrogatory 32. State, if you know, the name of the original
340 claimant in each one of these locations thus returned by the surveyor to the recorder subsequent to April, 1823; and state also, if you know, the date of each return.

Answer. In answer to this question I beg leave to file a certified extract from the schedule or exhibit now on file in my office, wherein I have set forth the name of the claimant and the date of the return in each case, which certified extract is annexed to my deposition, and marked "Exhibit C."

Interrogatory 33. State if patent-certificates have been issued on these claims, so as above returned, since April, 1823.

Answer. There have been patent-certificates issued on a number of them.

Interrogatory 34. State if any patent-certificates were issued in the last two years on New Madrid locations.

Answer. There have been issued in the last two years seven patent-certificates on New Madrid locations.

Interrogatory 35. State whether patent-certificates have been issued

by the recorder upon those locations which you say were surveyed subsequent to April, 1823.

Answer. Such patent-certificates have been issued.

Cross-examination by Henry M. Post, counsel for the United States:

Cross-interrogatory 1. Do you know of any other records in either of the offices which are in your charge, besides those which you have mentioned, which bear upon the title of the plaintiff under this New Madrid certificate?

Answer. I do not know of any records besides those I have mentioned.

Cross-interrogatory 2. Do you know of any records in your office showing any other title to the particular land in controversy?

Answer. I know of none.

Cross-interrogatory 3. If there was any such record, in your examinations would you probably have discovered it?

Answer. It would probably have come to my eyes in the course of time.

Question by commissioner. Do you know of any other matter relative to the claim in question?

Answer. I know of none.

E. H. HESSE.

Subscribed and sworn to before me this 6th day of December, A. D. 1872.

GEORGE DENISON,
Commissioner Court of Claims.

The deposition of H. M. Rector, jr., for claimant, taken at Saint Louis, on the 5th day of December, 1872.

Interrogatory 1 by commissioner. State your name, your occupation, your age, your place of residence; whether you have or not, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Henry M. Rector, jr. My occupation is medical student. My age is twenty-five years. I reside in Hot Springs, Arkansas, but am temporarily at the medical university here in Saint Louis. I have no interest in the claim which is the subject of inquiry excepting that I am acting in the capacity of trustee, holding the property in question; and the claimant, Henry M. Rector, is my father.

Interrogatory 2. Who is in possession of the land covered by the New Madrid location at Hot Springs, Arkansas?

Answer. John C. Hale, William H. Gaines, and Henry M. Rector, under whom I hold as trustee.

Interrogatory 3. What is the value of the improvements upon that part of that New Madrid location which you hold as trustee?

Answer. Thirty thousand dollars; about that.

Interrogatory 4. State whether you assisted A. H. Rutherford, in January, 1872, in making an examination of what is known as the Hale and Conway surveys of the New Madrid location covering the Hot Springs of Arkansas?

Answer. Yes, sir; I did.

Interrogatory 5. What portion of the duties in making that examination did you perform?

Answer. I carried the hind end of a chain in measuring the lines and distances.

Interrogatory 6. State, if you know, how many days Mr. Rutherford was in making that examination, if you recollect.

Answer. I think four or five days.

Interrogatory 7. State whether or not, in that examination, Mr. Rutherford examined what purported to be the surveys of Conway and Hale, both of them.

Answer. Yes, sir; he did.

Interrogatory 8. State whether or not Mr. Rutherford, in making this examination in the field, had with him papers purporting to be copies of both the Conway and Hale surveys.

Answer. Yes, sir; he did.

Interrogatory 9. State whether or not Mr. Rutherford, in making that examination, identified and found marked on the trees both the Conway survey and the Hale survey; that is, what he supposed to be those surveys.

Answer. Yes, sir; he did.

Interrogatory 10. State how these two surveys, as he found them, lay relatively to each other on the ground; that is, the east and west boundaries.

Answer. The east boundary of Conway's survey was a short distance further east than the east boundary of the Hale survey, and the west boundary of Hale's survey was a little distance west of the west boundary of the Conway survey.

Interrogatory 11. State whether or not you found any of the corner-trees of the Conway survey in making that examination.

Answer. We found a pine at the southwest corner that answered the description of the corner-tree described in Conway's notes.

Interrogatory 12. State whether or not you measured with a chain from that southwest corner of Conway's survey east to Hot Spring Creek.

Answer. Yes, sir; I measured it.

Interrogatory 13. State how the distance, as you measured it, corresponded with the distance as stated in Conway's notes.

Answer. According to my recollection we found it exactly the same, or within a link or two.

Interrogatory 14. State whether you measured from the point supposed to be the northwest corner on the line running south to a creek running east.

341 Answer. Yes, sir; we did.

Interrogatory 15. How did that measurement you made agree with Conway's notes?

Answer. We made the distance very nearly the same as Conway did; the difference was very little.

Interrogatory 16. State whether you found any line-trees blazed on the south boundary of the Conway survey.

Answer. We found one tree; a dead pine.

Interrogatory 17. State whether or not the balance of that line, from that pine-tree on the south boundary, ran through ground the timber of which has been cut off.

Answer. Yes, sir.

Interrogatory 18. State whether or not, on the north, east, and west, boundaries of the Conway surveys you found trees blazed on those lines.

Answer. Yes, sir; we found a great many trees blazed.

Cross-examination by H. M. Post, counsel for the United States:

Cross-interrogatory 1. In accompanying Mr. Rutherford on that survey, were you in his employ, or did you attend of your own notion, or at the request of your father?

Answer. I attended at the request of my father.

Cross-interrogatory 2. How many other assistants did Mr. Rutherford have, at that time, in that survey?

Answer. The party consisted of Mr. Rutherford and two chain-carriers, myself, and Edward Smith, a Swede.

Cross-interrogatory 3. Are you a practical surveyor?

Answer. No, sir.

Cross-interrogatory 4. What assistance, if any, did you have in making these measurements?

Answer. Smith carried one end of the chain and I carried the other; Rutherford carried the compass.

Cross-interrogatory 5. In comparing these measurements and these tree-marks with the reputed measurements and the marks of the Conway survey, did you examine the notes and memoranda of the Conway survey personally, or did you derive your knowledge of their comparison from the statements of Rutherford or Smith?

Answer. In regard to the marks on the trees, I don't know that I ever looked at the notes—I derived my knowledge from Mr. Rutherford; but the measurements of distances, in measuring from the southwest corner to the Hot Spring Creek, I did look at the notes.

Cross-interrogatory 6. How do you derive your knowledge of the genuineness of the notes or memoranda of the Conway survey used on that occasion?

Answer. I don't know whether they were genuine or not. My impression was they were correct.

Cross-interrogatory 7. Have you ever given any deposition or affidavit with reference to the subject of this testimony at any other time?

Answer. No, sir; never.

By commissioner. Do you know any other matter relative to the claim in question?

Answer. No, sir. I don't think I could testify to anything more.

H. M. RECTOR, JR.

Subscribed and sworn to before me this 5th day of December, A. D. 1872.

GEORGE DENISON,
Commissioner.

At the request of the parties hereto, I continue the further taking of these depositions until to-morrow, the 6th day of December, A. D. 1872, at eleven o'clock a. m., no other witnesses being in attendance to-day.

GEORGE DENISON,
Commissioner of the Court of Claims.

On the 6th day of December, 1872, I proceeded with taking of depositions in the said cause, as stated hereinbefore, the witness Ernest H. Hesse having been recalled by claimant, as appears in the testimony of said Hesse.

GEORGE DENISON,
Commissioner United States Court of Claims.

EXHIBIT F.—NEW MADRID CLAIMS.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.	Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder' office.	Remarks.
					Survey.	Township.	Range.		Execution of survey.	Return to the recorder.		
467	Francis Langlois, senr.	26 November, 1818.	27 January 1819.	2 March, 1805. No. 1076 of Exhibit A.	2903	....	...	200 arpens.....	.....	.....	Testimony, &c., page 75.	Located in Arkansas to cover "Hot Spring;" certificate Nos. 270, 271, 467, & 470; make up 640 acres.

OFFICE OF THE CUSTODIAN OF THE ARCHIVES OF UNITED STATES SURVEYS IN MISSOURI,
St. Louis, Dec. 5, 1872.

This is to certify that the above is a correct extract from Schedule or Exhibit F, (New Madrid claims,) of all dates and references that appear under New Madrid certificate 467, in the name of Francis Langlois. The said schedule or exhibit is, up to this day, kept on file in this office.

[SEAL.]

E. H. HESSE, *Custodian*

UNITED STATES OF AMERICA, *State of Missouri:*

Know ye that I, B. Gratz Brown, governor of the State of Missouri, hereby certify that E. H. Hesse, whose name is affixed to the annexed certificate, was, on the 5th day of December, in the year of our Lord eighteen hundred and seventy-two, custodian of the archives of United States survey in the State of Missouri, duly commissioned and qualified according to law, and duly authorized, according to the laws of said State, to grant said certificate, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixe1 the great seal of the State of Missouri. Done at the city of Jefferson, this 16th day of December, in the year of our Lord one thousand eight hundred and seventy-two, of the Independence of the United States the ninty-seventh, and of the State of Missouri the fifty-third.

[SEAL.]

B. GRATZ BROWN.

By the governor:

EUGENE WEIGEL, *Secretary of State.*

Fee, $1.00. Please remit.

343 *Exhibit B to deposition of E. H. Hesse.*—GEORGE DENISON, *Comr.*

From the exhibit or schedule on file in the office of the custodian of the Missouri surveys it appears that the following New Madrid locations were surveyed, according to the annexed dates, subsequent to the month of April, 1823:

No. of survey.	Name of claimant.	Date of survey.
2640	Simon Subtil	April, 1844.
2580	Nicholas Tirart	October, 1823.
2745	Andrew Burns	May, 1824.
2536	Joseph Mitchell, under G. B. Chartier	October, 1823.
2892	John Hudgens, under Jesse Taylor	March, 1845.
2633	Joseph Dutailles	April, 1824.
2696	John B. Girard	March, 1836.
2914	Pachard Hazle	November, 1823.
2679	Louis Lefevre	August, 1823.
2447	Jonathan Hurley	April, 1834.
2610	Peter Lewis	July, 1835.
2478	Isaac Fooy	June, 1829.
2943	Louis Baby	October, 1823.
2735	Robert Masters, under Daniel Frazer	October, 1842.
2486	Robert Cummings	January, 1824.
2485	Charles Matthews	August, 1823.
2634	Edward Matthews, senr	April, 1824.
2488	Joseph Vandenbenden & William Gibson	In 1845 & 1846.
	John Dorlan	October, 1839.
2630	Rheneicke & Steinback, ass'e of George Ruddle, ass'e of J.	
2625	Dorlan	May, 1849.
2608	Peter Dapron	May, 1840.
2521	Joseph Story, under Louis Lardoise	September, 1841.
2915	Louis St. Aubin	April, 1832.
2603	Ann Claude Francis Riche Dupin	October, 1823.
2884	Henry Masters	August, 1847.
2690	Jesse Blanks	May, 1844.
2604	John Russell	December, 1843.
2674	Edward Robertson, under Emsley Jones	April, 1824.
3341	Charles Lucas, under Rezon Bowie	November, 1857.
2682	Samuel Parker	May, 1829.
2933	Caty Gollowhorn	June, 1824.
2597	Eloi Dejarlais	October, 1823.
2575	Joseph Story	November, 1842.
2594	Louis Sojourner	November, 1833.
5670	Peter Power	November, 1826.
2800	Thomas Wolsey	October, 1823.
2688	Absalom Hacker	June, 1836.
2728	Eustache Peltier	October, 1841.
2938	Legal representatives of Azor Recs	April, 1857.
2937	John Hemphill's representatives	October, 1836.
2618	Nathaniel Shaver	May, 1829.
2669	John B. Chandillon	January, 1854.
2639	John Roberts	March, 1859.
2659	William Tarres, under Peter O'Neal	October, 1852.
2772	Andrew Woods	June, 1824.
2701	Jacob Milliken	August, 1842.
2726	Richard Westbrook	November, 1832.
2879	Moses Vanses	June, 1829.
2704	Auguste Delarobondiere	September, 1826.
2934	George Ruddell	August, 1847.
2979	Anthony Bonneau	April, 1836.
2755	Charles Guibeault	December, 1823.
2848	Samuel Dorsey, under Samuel Adams	May, 1829.
2824	James Williams	November, 1842.
2771	Nicholas Janis	March, 1833.
2841	Francis Trenchard	June, 1824.

No. of survey.	Name of claimant.	Date of survey.
2918	Philip Shakler	July, 1829.
2929	Ignace Hunot	August, 1823.
2778	Gabriel Hunot, jr	May, 1844.
2799	Michel Bontronc	October, 1855.
2944	Elisha Jackson	September, 1833.
2854	Hugh McChisholm	November, 1823.
2945	John B. St. Mary	February, 1839.
2919	Toussaint Godair	December, 1847.
2868	Thomas Thompson	March, 1849.
2928	Joseph St. Mary, or his leg'l rep's	May, 1829.
2691	Nicholas Dapron	May, 1829.
2940	Charles Lognon	March, 1856.
2911	Alexander McFarlane	May, 1829.
2910	George Unerons	December, 1823.
2839	Jacob Myers	October, 1839.
2941	Joseph Gravier	August, 1847.
3885	Resa Bowie	September, 1837.
2852	John Butler	September, 1833.
2931	Augustin Gonzales	June, 1824.
2932	John F. Almendros	June, 1824.
2921	Manuel Violet	November, 1844.

OFFICE OF THE CUSTODIAN OF THE ARCHIVES
OF THE UNITED STATES SURVEYS IN MISSOURI,
St. Louis, December 4, 1872.

This is to certify that the foregoing list of New Madrid surveys, being 77 in number, were surveyed, according to the dates annexed thereto, subsequent to the month of April, 1823.

[SEAL.]

E. H. HESSE,
Custodian.

Exhibit B, referred to in the deposition of Ernest H. Hesse.

GEORGE DENISON,
Commissioner.

UNITED STATES OF AMERICA,
State of Missouri:

Know ye that I, B. Gratz Brown, governor of the State of Missouri, hereby certify that E. H. Hesse, whose name is affixed to the annexed certificate, was, on the 4th day of December, in the year of our Lord eighteen hundred and seventy-two, custodian of the archives of United States surveys, in the State of Missouri, duly commissioned and qualified according to law, and duly authorized, according to the laws of said State, to grant said certificate, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Missouri. Done at the city of Jefferson, this 6th day of December, in the year of our Lord one thousand eight hundred and seventy-two, of the Independence of the United States the ninety-seventh, and of the State of Missouri the fifty-third.

B. GRATZ BROWN.

By the governor:

[SEAL.]

EUGENE WEIGEL,
Secretary of State.

Fee $1.00. Please remit.

344 *Exhibit C to deposition of E. H. Hesse.*—GEORGE DENISON, *Com.*

The following list of surveys of New Madrid locations was returned by the surveyor-general to the recorder of land-titles on the dates thereto annexed, all subsequent to the month of April, 1823:

No. of survey.	Names of the claimants.	Date of return.
2777	William Brown	2nd November, 1825.
2436	John Baptiste Latrimoule	29th November, 1856
2441	Jesse Devoir	5th December, 1823.
2640	Simon Subtil	22nd May, 1845.
2470	Francis Lesieur	26th January, 1824.
2471	Francis Lesieur	26th January, 1824.
2844	Joseph Terland	1st November, 1823.
2577	Louis Dubois' representatives	2nd February, 1848.
2476	Antoin Gamelin	1st September, 1832.
2842	Joseph Genereaux	29th November, 1856.
2580	Nicolas Tirart	20th September, 1837.
2922	McKentez alias Micajah Harris	20th December, 1837.
2536	Joseph Mitchell, under J. B. Chartier	October, 1823.
2530	Job Self	7th January, 1824.
2892	John Hudgens, under Jesse Taylor	6th October, 1847.
2633	Joseph Dutailles	1st June, 1853.
2435	William Clark	11th November, 1823.
2696	John B. Girard	27th August, 1839.
2524	Joseph Edwards	17th November, 1823.
2914	Richard Hazle	13th November, 1823.
2679	Louis Lefevre	10th September, 1837.
2677	Peter Noblesse, under Paul Washburn	9th May, 1823.
2440	Jacob Devore	12th April, 1826.
2448	Benjamin Myers	10th June, 1823.
2472	Eustache Peltier	11th October, 1825.
2727	John B. Chartier	1st May, 1825.
2502	Richard Waters, under John Harner	1st May, 1824.
2504	Benjamin Fooy, under John Hogan	1st May, 1824.
2453	Conrad Wheat, jun'r	8th June, 1848.
2464	John B. Barsaloux	11th November, 1823.
2610	Peter Lewis	29th November, 1856.
2503	Ambrose Seraphin	1st May, 1824.
2506	Peter Perron	16th October, 1848.
2537	Thomas Huff, sen'r	16th February, 1849.
2478	Isaac Fooy	11th May, 1830.
2479	Elizabeth Jones	22nd January, 1824.
2943	Louis Baby	29th November, 1856.
2735	Robert Masters, under Daniel Frazer	10th November, 1842.
2486	Robert Cummings	8th January, 1825.
2482	John Hudgeons, ass'ee of John Culbertson, who was ass'ee of John Watkins	26th January, 1824.
2573	John Baker, sen'r	26th October, 1823.
2498	James Y. O'Carroll	26th March, 1862.
2485	Charles Matthews	4th September, 1837.
2634	Edward Matthews, sen'r	10th August, 1829.
2736	John Cummings	26th November, 1842.
2500	Joseph Hunot	5th February, 1859.
2496	Widow Lacourse	28th February, 1825.
2570	John Ruddle	25th April, 1826.
2630	John Derlan	2nd December, 1839.
2625	Rheneiche & Steinback, ass'ee of George Ruddle, ass'ee of J. Dorlac	20th August, 1849.
2901	Richard J. Waters, under Benjamin Harrison	25th January, 1825.
2505	William Talbot	2d February, 1848.
2599	John B. Depuis	12th April, 1826.
2946	Louis St. Aubin	18th November, 1827.
2571	Henry Peroux, under Francis Hamelin	24th January, 1824.
2516	Henry Peyroux, under Hugh McDonald Chisholm	12th November, 1829.

No. of survey.	Names of the claimants.	Date of return.
2608	Peter Dapron	10th July, 1840.
2521	Joseph Story, under Louis Lardoise	17th February, 1842.
2716	Joseph Milleet	9th May, 1823.
2915	Louis St. Aubin	16th May, 1857.
2603	Ann Claude Francis Rich Dupin	6th October, 1823.
2884	Henry Masters	31st January, 1848.
2690	Jesse Blanks	17th October, 1844.
2674	Edward Robertson, under Emsley Jones	23d November, 1832.
2682	Samuel Parker	22d November, 1831.
2933	Caty Gollowhorn	30th June, 1828.
2597	Eloi Dejarlais	6th October, 1823.
2760	Joseph Laplante	17th June, 1828.
2670	Peter Power	3d February, 1848.
2686	James Smith	2d June, 1852.
2743	Francis Langlois	6th January, 1825.
2800	Thomas Wolsey	December, 1823.
2688	Absalom Hacker	1st July, 1837.
2689	John Dominique	9th May, 1823.
2788	Eustache Peltier	26th March, 1842.
2938	Legal rep's of Azor Recs	29th June, 1857,
2937	John Hemphill's represent's	9th October, 1837.
2618	Nathaniel Shaver	28th November, 1832.
2699	Robert McCoy	3d June, 1823.
2669	John B. Chandillon	24th November, 1854.
2639	John Roberts	4th April, 1859.
2809	Daniel Bankson, ass'ee of James Bankson	22d December, 1847.
2680	Thomas Wellborn	10th Octobor, 1825.
2850	Stephen Byrd, under Jesse Bowden	7th November, 1823.
2614	Baptiste Lafleur	14th April, 1825.
2659	William Larres, under Peter O'Neal	3d December, 1855.
2645	Francis Derausse	3d September, 1823.
2772	Andrew Woods	25th January, 1825.
2675	Charles Chatres	4th January, 1824.
2701	Jacob Milliken	22d August, 1842.
2684	Peter Saffray	11th December, 1854.
2712	James Conway	9th May, 1823.
2726	Richard Westbrook	22d August, 1833.
2687	John F. Chatigny	2d June, 1852.
2704	Auguste Delarobondiere	29th November, 1856.
2934	George Ruddell	31st January, 1848.
2846	David Johnson	30th December, 1823.
2979	Anthony Bonneau	12th January, 1837.
2851	Jacob Bogard	22d January, 1824.
2755	Charles Guibeault	30th December, 1823.
2789	Jean Montmenie	2d February, 1848.
2848	Samuel Dorsey, under Samuel Adams	10th May, 1830.
2824	James Williams	14th October, 1843.
2771	Nicholas Janis	20th May, 1844.
2841	Francis Trenchard	25th January, 1825.
2918	Philip Shackler	30th August, 1831.
2798	Alexis Picard	February, 1836.
2902	Francis Millette	4th October, 1823.
2929	Ignace Hunot	22d January, 1824.
2778	Gabriel Hunot, jun'r	17th October, 1844.
2916	Francis B. Corosier, under John E. Hart	20th July, 1823.
2925	Louis Coignard, legatee of Claude Jos. Gouet	21st March, 1846.
2926	Francis Racine	18th February, 1825.
2799	Michel Bontronc	29th November, 1856.
2944	Elisha Jackson	29th January, 1824.
2854	Hugh McD. Chisholm	3d November 1828.
2945	John B. St. Mary	2d December, 1839.
2927	Toussaint Godair	6th April, 1844.
2868	Thomas Thompson	30th April, 1849.
2897	John Dorlan	28th January, 1828.
2888	Boutholemy Tardivean	11th September, 1854.

No. of survey.	Names of the claimants.	Date of return.
2928	Joseph St. Mary, or his legal representatives	29th November, 1856.
2942	P. St. Mary	25th September, 1823.
2691	Nicholas Dapron	29th November, 1856.
2935	Francis St. Mary	25th September, 1823.
2940	Charles Lognon	1st June, 1857.
2911	Alexander McFarlane	11th May, 1830.
2910	George Unerous	30th December, 1823.
2909	George Unerous	6th January, 1828.
2831	Philip Lady	29th November, 1856.
2839	Jacob Myers	2nd December, 1839.
2844	Jacob Myers, under Francis Hudson	1st November, 1823.
2865	Antoine Gamelin, or his legal representatives	8th November, 1828.
2913	Steward Cummings	6th January, 1825.
2941	Joseph Gravier	31st January, 1848.
2867	Charles Hogan	23d February, 1845.
2906	John B. Barsaloux	6th August, 1835.
2889	Bernard & Anthony Laffond	21st February, 1825.
2885	Rosa Bowie	30th September, 1837.
2931	Augustin Gonzales	22d August, 1826.
2932	John T. Almendros	22d August, 1829.
2921	Manuel Violet	29th November, 1856.

142 in all.

OFFICE OF THE CUSTODIAN OF THE ARCHIVES
OF THE UNITED STATES SURVEYS OF MISSOURI,
St. Louis, December 7, 1872.

This is to certify that the foregoing list of surveys, with the date of the return from the surveyor-general to the U. S. recorder of land-titles, is correctly extracted from the schedule or e'hibit, which is up to
345 this day kept on file in this office, all of the above dates of return being subsequented to the month of April, 1843.

[SEAL.] E. HESSE, *Custodian.*

UNITED STATES OF AMERICA,
State of Missouri:

Know ye that I, B. Gratz Brown, governor of the State of Missouri, hereby certify that E. H. Hesse, whose name is affixed to the annexed certificate, was, on the 7th day of December, in the year of our Lord eighteen hundred and seventy-two, custodian of the archives of United States survey in the State of Missouri, duly commissioned and qualified according to law, and duly authorized, according to the laws of said State, to grant said certificate, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand, and caused to be affixed the great seal of the State of Missouri. Done at the city of Jefferson, this 16th day of December, in the year of our Lord one thousand eight hundred and seventy two, of the Independence of the United States the ninety-seventh, and of the State of Missouri the fifty-third.

B. GRATZ BROWN.

By the governor:
[SEAL.]

EUGENE WEIGEL,
Secretary of State.

List of New Madrid certificates, with a list of locations.

List of certificates issued by the recorder of land-titles under the act of Congress of the 17th of February, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Territory of Missouri, who suffered by earthquakes," which have been located in the present Territory of Arkansas.

RECORDER'S CERTIFICATE.							LOCATION.					
No.		Date.	Quantity.		To whom issued.	Date.	At whose instance.	Where situate.				
			Acres.	Arp's.				T'w'p.		R'ng.	M'd'n.	
2512	8	12 Nov., 1815	160	.....	Francis Lesieur	30th Nov., 1819	Ja's C. Canfield	1	N.	12 W.	5	p. m.
2493	15	12 Nov,, 1814	160	.....	Peter Porier	31st Jan'y, 1830	Stephen H. Long by W'm M. O'Hara	1	N.	12 W.	5	p. m.
2518	33	30th Nov., 1816	160	.....	John Darlac or reps	26th Feb'y, 1819	W'm M. O'Hara & Stephen F. Austin*					
2479	140	5th Sep'r, 1816	640	.....	Elizabeth Jones	25th April, 1823	Jas. Russell, agent for W'm Russell	19	S.	25 W.	5	p. m.
2489	156	30th Nov'r, 1815	640	.....	Henry Cockerham	30th Oct'r, 1820	W'm M. O'Hara	1 & 2	N.	12 W.	5th	p. m.
2487	158	29th Oct., 1816	.....	240	Benjamin Demint, ass'ee of Robert White, ass'ee of Francis Racine	16th July, 1822	W'm Russell	2	S.	5 E.	5th	p. m.
01	172	16th Decem., 1816	480	.....	Richard J. Waters, as derived from Benj. Harrison	14th Ap'l, 1823	Joel Campbell	19	S.	26 W.	5th	p. m.
2538	201	4th Decem., 1816	640	.....	Andrew Robertson, senr	16th Ap'l, 1823	Ja's Hickman	19	S.	25 W.	5th	p. m.
2923	236	14th Jan'y, 1817	.....	320	Benjamin Fooy, under Wm. Porter	11th Ap'l, 1823	George W. Ferebee, administrator of Rob't M. Desha, dec'd†	3	N.	14 W.	5th	p. m.
2933	237	14th Jan'y, 1817	640	.....	Caty Gollowhorn	21st Decem., 1819	William Russell, agent for the heirs of Caty Gollowhorn	8	N.	8 & 9 E.	5th	p. m.
2741	264	30th Nov'r, 1815	160	.....	Eloy Dejarlois	24th Feb'y, 1819	Wm. M. O'Hara & Stephen F. Austin†	1	N.	12 W.	5th	p. m.
2772	327	28th Nov'r, 1815	640	.....	Andrew Woods	4th Feb'y, 1823	James S. Conway	18	S.	25 & 26 W.	5th	p. m.
2841	397	12th Aug., 1818	.....	300	Francis Trenchard	25th April, 1823	James S. Conway	19	S.	25 W.	5	p. m.
2929	417	18th Aug., 1818	640	.....	Ignace Hunot	24th Feb'y, 1823	George Bently by William Russell, his agent	5	N.	16 W.	5	p. m.
2930	461	12th Nov'r, 1818	640	.....	Phœbe Dunn	22d March, 1823	William Russell, agent for Phœbe Dunn's heirs	2	N.	5 E.	5	p. m.
2942	468	26th Nov'r, 1818	160	.....	P. St. Mary	25th April, 1823	James S Conway	19	S.	20 W.	5th	p. m.
35	472	Not dated.	160	.....	Francis St. Mary	25th April, 1823	A. H. Evans	19	S.	25 W.	5th	p. m.
2905	477	30th Nov'r, 1818	640	.....	Edward Proctor	4th Feb'y, 1833	James S. Conway, agent for Joseph Paxton	19	S.	25 & 26 W.	5th	p. m.
	514	5th Sep'r, 1816	.....	320	Augustin Gonzales	21st Decem., 1819	William Russell, agent for Augustin Gonzales & John Fr's Almendros	7	N.	8 E.	5th	p. m.
2932	515	5th Sep'r, 1816	.....	320	John Fr's Almondros	21st Decem., 1819	Samuel Hammond & Elias Rector§					
2603	467	26th Nov., 1818	.....	200	Francis Langlois	27th Jan'y, 1819						
2853	504		640	.....	John Loyed							

2905

* On Big Red River.
† South of Arkansas River.

‡ South of Ark's River, near Little Rock.
§ To include the hot springs on the Washitau River.

WASHINGTON CITY, 10*th October*, 1855.

I certify that the above is a true and correct copy of the schedule on file in the surveyor's office, at Little Rock, of New Madrid claims located in Arkansas, the original having been made out at St. Louis and transmitted to the office in Little Rock, with other official papers, about the year 1832 or 1833, at which time the office of surveyor-gen'l for Arkansas created.

HENRY M. RECTOR,
Surveyor of Public Lands for Arkansas.

(Indorsed:) (F. 10.) (3.) (E. 10.) List of New Madrid certificates issued, with a list of locations. Certificate to Langlois No. 467. Survey thereof No. 2903. No. 135.

346 *Reply of Secretary of Interior to a call of the Court of Claims, giving list of New Madrid private land-claims in Arkansas and Missouri.*

In the United States Court of Claims.

HENRY M. RECTOR
against
THE UNITED STATES. } No. 6245.

And now comes the claimant in the above-entitled cause, by his attorney, John B. Sanborn, one of his attorneys therein, and moves this honorable court for an order calling upon the Secretary of the Department of the Interior to furnish from the records and files of the General Land-Office the following, to wit:

I. A list of New Madrid certificates, issued under the act of February 17, 1815, showing the number of certificates, respectively, date of issue, and name of party to whom issued, so far as the same appears from the files and records of your office.

Also showing the New Madrid certificates that have been located, where and when located, date of survey of each location, date of the return of the survey of each location by the surveyor to the recorder of land-titles, date of the approval of each survey, date of the record of same by the recorder of land-titles, when each location was patented, and the name of the patentee, so far as appears by the records and files of the General Land-Office.

II. A list of locations by New Madrid certificates, upon which patents have not been issued, and a statement opposite each, showing why they have not, so far as appears by the records and files of the General Land-Office.

JOHN B. SANBORN,
Claimant's Attorney.

FEBRUARY 12, 1873.

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. The United States. Motion for order calling for evidence from Interior Department. Allowed 13th Feb'y, 1873. E. Peck, judge. Filed & issued Feb. 13, 1873. J. R. John B. Sanborn, claimant's atty.

DEPARTMENT OF THE INTERIOR, GENERAL LAND-OFFICE,
March 21, 1873.

I, W. W. Curtis, Acting Commissioner of the General Land-Office, do hereby certify that the annexed is a true and literal exemplification from the records of this Office of an exhibit marked "F," of New Madrid private land-claims in Arkansas and Missouri.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

W. W. CURTIS,
Acting Commissioner of General Land-Office.

347 *Exhibit F, showing the claims to land, commonly called "New Madrid claims," founded visions of the act of Congress of the 17th February, 1815, entitled "An act for the relief earthquakes."*

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim and reference to previous exhibits.
1	William Brown....	28 November, 1815	August 21st 1818, & 5 March, 1819.	2 March, 1805; Exhibit A. No. 1063. 29 April, 1816; Exhibit C. No. 208.
2	Joseph Huno, jun'r.	12 November, 1815	11 February, 1817.....	29 April, 1816; No. 474 of Exhibit B.
3	John Baptiste Latrimoule.	12 November, 1815	24 September, 1816, & 22 December 1817.	2 March, 1805; No. 1082 of Exhibit A. 29 April, 1816; No. 222 of Exhibit C.
4	Jesse Devoir.....	7 August, 1816	17 March, 1823.....	29 April, 1816; No. 409 of Exhibit E.
5	John B. Perron....	12 November, 1815	6 December, 1822.....	29 April, 1816; No. 495 of Exhibit B.
6	Simon Subtil	12 November, 1815	1 September, 1817.....	29 April, 1816; No. 553 of Exhibit B.
7	Francis Lesieur....	12 November, 1815	23 December, 1818.....	29 April, 1816; No. 537 of Exhibit B.
8	Francis Lesieur....	12 November, 1815	30 November, 1819.....	29 April, 1816; No. 538 of Exhibit B.
9	Francis Lesieur....	12 November, 1815.	2 October, 1816.....	29 April, 1816; No. 539 of Exhibit B.
10	Francis Lesieur....	12 November, 1815.	2 October, 1816.....	29 April, 1816; No. 540 of Exhibit B.
11	Joseph Forland....	12 November, 1815.	12 April, 1820.....	2 March, 1805; No. 1068 of Exhibit A. 29 April, 1816; No. 213 of Exhibit C.
12	Louis Dubois' representatives.	12 November, 1815.	6 December, 1820.....	29 April, 1816; No. 308 of Exhibit E.
13	Antoine Gamelin..	12 November, 1815.	8 June, 1820.....	29 April, 1816; No. 307 of Exhibit E.
14	Peter Porier.....	12 November, 1815.	4 November, 1816.....	29 April, 1816; No. 535 of Exhibit B.
15	Peter Porier.....	12 November, 1815.	31 January, 1820.....	29 April, 1816; No. 536 of Exhibit B.
16	Francis Delisle....	12 November, 1815.	.....	2 March, 1805; No. 534 of Exhibit A.
17	Joseph Genereux..	12 November, 1815.	14 July, 1820.....	29 April, 1816; No. 523 of Exhibit B.
18	Joseph Genereux..	12 November, 1815.	21 April, 1823.....	29 April, 1816; No. 524 of Exhibit B.
19	Joseph Genereux..	12 November, 1815.	12 December, 1817.....	29 April, 1816; No. 533 of Exhibit B.
20	Joseph Genereux..	12 November, 1815.	Not dated.....	29 April, 1816; No. 534 of Ex. hibit B.
21	Nicolas Tirart.....	12 November, 1815.	25 April, 1823.....	2 March, 1805; No. 582 of Exhibit A.
22	Richard Secoy.....	12 November, 1815.	10 July, 1817	2 March, 1805; No. 570 of Exhibit A.
23	Peter Garreau	12 November, 1815.	8 September, 1817.....	29 April, 1816; No. 476 of Exhibit B.

REMARKS.

1. Pat'd June 26, 1826. Rec. vol. 5, pp. 273 & 274.
2. Pat'd Jan'y 31, 1825. Rec. vol. 5, pp. 24 & 25. Sent to Hon. John Scott, Feb'y 5, 1825.
6. Pat'd March 18, 1851. Rec. vol. 11, pp. 102 to 104. Sent to recorder land-titles, March 20, 1851.
7. Pat'd July 3, 1820. Rec. vol. 2, pp. 297. Sent to Taylor Berry, July 3, 1820.
8. Situate in Arkansas.
9. Pat'd M'ch 22, 1828. Rec. vol. 6, pp. 96 & 97. Sent to Hon. E. Bates, M'ch 26, 1828.
10. Pat'd M'ch 22, 1828. Rec. vol. 6, pp. 98 & 99. Sent to Hon. E. Bates, M'ch 26, 1828.
11. Pat'd Mc'h 26, 1824. Rec. vol. 4, pp. 301 to 309. Sent to M. P. Leduc, May 11, 1824.

upon certificates, issued by Frederick Bates, recorder of land-titles in Missouri, under the proof of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2777	50 north	28 west	640 acres	.....	2 November, 1825	Testimony, &c., page 18.
2546	49 north	14 west	160 acres	May, 1819	8 January, 1820	Testimony, &c., page 4.
2436	48 & 49 north	15 west	640 acres	September, 1818	29 November, 1856	Testimony, &c., pages 6 & 47.
2441	52 north	16 west	640 acres	.....	5 December, 1823	Testimony, &c., pages 41 & 48.
2866	57 north	5 west	160 acres	Not surveyed	.....	Testimony, &c., page 15.
2640	44 north	9 west	160 acres	April, 1844	22 May, 1845	Testimony, &c., page 2.
2563	48 north	16 west	160 acres .. Actual area of survey 104.56 acres.	April, 1819	4 May, 1819	Testimony, &c., page 4.
2512	1 north	12 west	160 acres	April, 1820	17 October, 1820	Testimony, &c., page 4.
2470	47 north	7 east	160 acres	November, 1817	26 January, 1824	Testimony, &c., page 4.
2471	47 north	7 east	160 acres	November, 1817	26 January, 1824	Testimony, &c., page 4.
2484	45 north	6 east	640 acres	May, 1820	1 November, 1823	Testimony, &c., page 2.
2577	44 north	1 east	640 acres	April, 1823	2 February, 1848	Testimony, &c., page 1.
2476	46 north	6 east	640 acres	October, 1820	1 September, 1832	Testimony, &c., page 4.
2492	44 north	7 east	160 acres	May, 1818	.....	Testimony, &c., page 3.
2493	1 north	12 west	160 acres	May, 1820	17 October, 1820	Testimony, &c., page 3.
2620	45 north	7 east	200 arpens	July, 1818	5 February, 1823	Testimony, &c., page 1.
2842	33 north	12 east	160 acres	.....	29 November, 1856	Testimony, &c., page 5.
2939	45 north	6 east	160 acres	April, 1823	.....	Testimony, &c., page 5.
2692	45 north	7 east	160 acres	June, 1819	5 February, 1823	Testimony, &c., page 5.
2843	48 & 49 north	16 west	160 acres	Not surveyed	.....	Testimony, &c., page 5.
2580	47 north	4 east	200 arpens	October, 1823	20 September, 1837	Testimony, &c., page 6.
2617	52 north	16 west	200 arpens	January, 1818	1 January, 1820	Testimony, &c., page 3.
2549	45 north	11 west	160 acres	.....	24 February, 1820	Testimony, &c., page 6.

REMARKS.

12. Pat'd July 22, 1848. Rec. vol. 10, pp. 270 to 272. Sent to recorder land-titles, Aug. 23, 1848.
13. Pat'd Feb'y 10, 1834. Rec. vol. 7, pp. 327 to 239. Sent to Hon. John Bull, Feb'y 12, 1834.
14. Situate in the Carondelet common.
15. Situate in Arkansas.
16. Pat'd Ap'l 11, 1828. Rec. vol. 6, pp. 117 to 119.
18. Pat'd Feb'y 18, 1835. Rec. vol. 8, pp. 53 & 54. Sent to Hon. John Bull, Feb'y 21, 1835.
19. Pat'd Ap'l 11, 1828. Rec. vol. 6, pp. 116 & 117.
21. Pat'd Dec. 3, 1872. Rec. vol. 13, pp. 488 to 491. Sent to recorder l'd-titles same date. See to Mrs. Harriet Smith, St. Louis, Mo., same date.
22. Pat'd July 3, 1820. Rec. vol. 2, p. 302.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming original claim, and reference previous exhibits.
24	Raphael Lesieur...	28 November, 1815.	13 September, 1817....	2 March, 1805; No. 435 of Exhibit A.
25	Eustache Peltier...	28 November, 1815.	26 March, 1818	29 April, 1816; No. 559 of Exhibit B.
26	Firman Lesieur....	28 November, 1815.	12 August, 1817.....	2 March, 1805; No. 1094 of Exhibit A; 29 April, 1816; No. 225 of Exhibit C.
27	Gabriel Hunot.....	12 November, 1815.	25 June, 1817.....	29 April, 1816; No. 416 of Exhibit E.
28	Francis Mitchell...	28 November, 1815.	12 October, 1816.....	29 April, 1816; No. 300 of Exhibit E.
29	Peter Dumay.....	12 November, 1815.	12 May, 1817.....	29 April, 1816; No. 494 of Exhibit B.
30	Antoine Vachard..	12 November, 1815.	.....	29 April, 1816; No. 486 of Exhibit B.
31	John B. Gobeau....	12 November, 1815.	23 October, 1816.....	29 April, 1816; No. 491 of Exhibit B.
32	Etienne St. Mary..	20 November, 1815.	16 April, 1817.....	29 April, 1816; No. 329 of Exhibit B.
33	John Dorlac.....	30 November, 1815	.....	2 March, 1805; No. 1048 of Exhibit A.
34	Andrew Burns....	28 November, 1815.	7 July, 1818.....	29 April, 1816; No. 315 of Exhibit E.
35	McHendgey Harris, alias Micajah Harris.	30 November, 1815.	1 January, 1822	2 March, 1805; No. 537 of Exhibit A.
36	Joseph Mitchell under John B. Chartier.	30 November, 1815	1 March, 1843	3 March, 1807; No. 602 of Exhibit A.
37	Joseph Hunot, sen'r	24 November, 1815.	27 November, 1816	29 April, 1816; No. 467 of Exhibit B.
38	Raphael Lesieur...	28 November, 1815	.....	29 April, 1816; No. 567 of Exhibit B.
39	Raphael Lesieur...	28 November, 1815	11 August, 1818.....	29 April, 1816; No. 568 of Exhibit B.
40	Job Self.....	28 November, 1815	22 April, 1823.....	29 April, 1816; No. 356 of Exhibit E.
41	Joseph Dorion.....	6 August, 1816....	19 December, 1816.....	2 March, 1805; No. 579 of Exhibit A.
42	Anthony Hibernois under Amable You.	6 August, 1816....	13 July, 1818.....	2 March, 1805; No. 611 of Exhibit A.
43	Hyacinthe Gayon..	6 August, 1816.....	16 June, 1818.....	29 April, 1816; No. 571 of Exhibit B.
44	Hyacinthe Gayon..	6 August, 1816....	10 December, 1818	29 April, 1816; No. 572 of Exhibit B.
45	Joseph Payne.....	6 August, 1816....	10 September, 1818....	29 April, 1816; No. 551 of Exhibit B.
46	Joseph Payne.....	6 August, 1816....	29 September, 1818....	29 April, 1816; No. 552 of Exhibit B.

REMARKS.

24. Pat'd Nov. 15, 1834. Rec. vol. 8, pp. 1 & 2. Sent to Hon. John Bull, March 13, 1835.
25. Pat'd Nov. 22d, 1820. Rec. vol. 2, p. 345. Sent to Hon. D. Barton, Nov. 23, 1820. (See No. 26 of Exhibit L.)
26. Pat'd July 3, 1820. Rec. vol. 2, p. 313. Sent to Taylor Berry, July 3, 1820.
27. Pat'd June 21, 1820. Rec. vol. 2, p. 272. Sent to Taylor Berry, June 21, 1820.
28. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 32. Sent to Taylor Berry, Nov. 15, 1822.
30. Pat'd July 3, 1820. Rec. vol. 2, 290. Sent to Taylor Berry, July 3, 1820.
31. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 434. Sent to Taylor Berry, Nov. 15, 1822.
32. Pat'd June 21, 1820. Rec. vol. 2, p. 276. Sent to Taylor Berry, June 21, 1820.
33. Pat'd Apl. 6, 1836. Rec. vol. 8, pp. 112 & 113. Sent to Edward Crow, Apl. 7, 1836. Located on Red River, in Arkansas.
34. Pat'd Oct. 19, 1827. Rec. vol. 5, pp. 443 to 445. Sent to Andrew Burns, Oct. 23, 1827.

rid claims.—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2644	50 north.....	16 west	200 arpens.	July, 1819	21 March, 1820.....	Testimony, &c., page 19.
2544	48 north.....	17 west	160 acres..	.....	24 February, 1820..	Testimony, &c., pages 19 & 20.
2626	48 & 49 north	17 west.	640 acres..	December, 1819..	1 January, 1820....	Testimony, &c., page 19.
2605	52 north.....	17 west.	640 acres..	.....	1 January, 1820....	Testimony, &c., page 1.
2445	47 north	14 west	400 arpens.	.....	8 January, 1820....	Testimony, &c., page 18.
2578	49 north	17 west.	160 acres..	June, 1817.....	8 January, 1820....	Testimony, &c., page 4.
2452	49 north	17 west.	160 acres..	November, 1816..	1 January, 1820....	Testimony, &c., page 7.
2450	49 north	16 west.	160 acres..	April, 1817	17 July, 1822.....	Testimony, &c., page 7.
2534	49 north	14 west.	640 acres..	.....	23 February, 1820..	Testimony, &c., page 10.
2518	.....	.....	160 acres..	.....	.....	Testimony, &c., page 27.
2745	48 & 49 north	17 west.	640 acres..	May, 1824.....	.....	Testimony, &c., pages 24 & 28.
2922	21 north	14 east.	200 arpens.	February, 1822..	20 December, 1837.	Testimony, &c., page 28.
2536	48 north	12 west.	240 arpens.	October, 1823....	October, 1823	Testimony, &c., page 27.
2514	49 north	19 west.	160 acres..	August, 1818	8 January, 1820....	Testimony, &c., page 16.
2601	49 north	14 west	160 acres..	May, 1819.....	8 January, 1820....	Testimony, &c., page 19.
2533	49 north	14 west.	160 acres..	March, 1819.....	8 January, 1820....	Testimony, &c , page 19.
2530	48 north	1 east..	640 acres..	March, 1817.....	7 January, 1824....	Testimony, &c., page 24.
2523	45 north	8 west..	200 arpens.	March, 1817.....	16 May, 1820	Testimony, &c., page 33.
2753	48 north	12 west	160 acres..	August, 1819.....	23 February, 1820..	Testimony, &c., page 34.
2732	45 north	7 east..	160 acres..	Not surveyed....	.....	Testimony, &c., page 33.
2834	52 north ...	22 west.	160 acres..	June, 1819.....	28 June, 1821.....	Testimony, &c., page 33.
2790	44 north	10 west.	160 acres..	September, 1918	11 March, 1820.....	Testimony, &c., page 33.
2803	49 north	19 west	160 acres..	.....	24 February, 1820..	Testimony, &c., page 33.

REMARKS.

35. Pat'd Feb'y 25, 1839. Rec. vol. 9. pp. 52 to 54. Sent to Hon. L. F. Lain, Mch. 2, 1839.
36. Pat'd May 27, 1824. Rec. vol. 4, pp. 369 & 370. Sent to Hon. John Scott, May 29, 1824.
37. Pat'd Sept. 29, 1847. Rec. vol. 10, pp. 177 to 179. Sent to D. M. Hickman, Oct. 5, 1847. Certificates Nos. 37 & 161 make up 640 acres.
38. Pat'd Mch. 24, 1827. Rec. vol. 5, pp. 322 to 324. Sent to R. Wash, Mch. 27, 1827.
39. Pat'd Mch. 24, 1827. Rec. vol. 5, pp. 324 & 325. Sent to R. Wash, Mch. 27, 1827.
41. Pat'd May 7, 1822. Rec. vol. 2, p. 406. Sent to Taylor Berry, May 15, 1822.
42. Pat'd July 3, 1820. Rec. vol. 2, p. 295. Sent to Taylor Berry, July 3, 1820. Certificates Nos. 42, 132, 304 & 305 make up 640 acres.
43. Located in the St. Louis common.
45. Pat'd July 3, 1820. Rec. vol. 2, p. 301. Sent to Taylor Berry, July 3, 1820.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
47	Joseph Riendeau..	6 August, 1816....	3 July, 1820.....	29 April, 1816; No. 529 of Exhibit B.
48	Joseph Riendeau..	6 August, 1816....	28 March, 1820.....	29 April, 1816; No. 530 of Exhibit B.
49	Amable Guyon....	6 August, 1816....	7 March, 1818.....	29 April, 1816; No. 541 of Exhibit B.
50	Amable Guyon....	6 August, 1816....	19 January, 1819.....	29 April, 1816; No. 542 of Exhibit B.
51	John Hudgens, under Jesse Taylor.	6 August, 1816....	26 May, 1919.....	2 March, 1805; No. 538 of Exhibit B.
52	Joseph Dutallis....	6 August, 1816....	25 April, 1823.....	29 April, 1816; No. 231 of Exhit E.
53	Thomas Y. Horsley	20 November, 1815.	22 October, 1816.....	29 April, 1816; No. 382 of Exhibit E.
54	William Clark.....	20 November, 1815.	7 July, 1818.....	29 April, 1816; No. 410 of Exhibit E.
55	Hardy Sojourner, ass'e of Anthony Trudell.	28 November, 1815	7 November, 1816.....	29 April, 1816; No. 349 of Exhibit D.
56	Louis Roy.....	28 November, 1815.	22 October, 1816.....	29 April, 1816; No. 312 of Exhibit E.
57	James Martin.....	6 August, 1816....	17 October, 1817.....	2 March, 1805; No. 1067 of Exhibit A. 29 April, 1816; No. 212 of Exhibit C.
58	Jonas Carl.....	7 August, 1816....	14 November, 1816.....	29 April, 1816; No. 407 of Exhibit E.
59	Eli Shelby.....	7 August, 1816....	23 April, 1818.....	29 April, 1816; No. 386 of Exhibit E.
60	Jesse Baker.....	12 August, 1816....	9 July, 1817.....	2 March, 1805; No. 1060 of Exhibit A. 29 April, 1816; No. 205 of Exhibit C.
61	John B. Girard.....	7 August, 1816....	14 April, 1823.....	29 April, 1816; No. 400 of Exhibit E.
62	John Baker, junr..	12 August, 1816....	7 March, 1818.....	2 March, 1805; No. 545 of Exhibit A.
63	Samuel Ware.....	6 August, 1816....	25 April, 1823.....	29 April, 1816; No. 438 of Exhibit E.
64	Samuel Harrison..	6 August, 1816....	22 November, 1816.....	2 March, 1805; No. 1078 of Exhibit A. 29 April, 1816; No. 218 of Exhibit C.
65	John Taylor.....	7 August, 1816....	6 August, 1817.....	2 March, 1805; No. 1036 of Exhibit A. 29 April, 1816; No. 192 of Exhibit C.
66	Patrick Connor....	7 August, 1816....	22 August, 1817.....	29 April, 1816; No. 423 of Exhibit E.
67	Joseph Edwards...	7 August, 1816....	4 May, 1818.....	2 March, 1805; No. 1042 of Exhibit A. 29 April, 1816; No. 897 of Exhibit C.
68	Hugh Burney.....	7 October, 1816....	27 April, 1818.....	29 April, 1816; No. 351 of Exhibit E.
69	James Reynolds...	7 August, 1816....	19 January, 1818.....	2 March, 1805; No. 1314 of Exhibit A. 29 April, 1816; No. 235 of Exhibit C.

REMARKS.

49. Pat'd Dec. 29, 1827. Rec. vol. 6, pp. 34 & 35. Sent to Genl. D. Bissell, Jan'y 8, 1828.
50. Pat'd Feb'y 18, 1835. Rec. vol. 8, pp. 55 & 56. Sent to Hon. W. H. Ashley. Feb'y 21, 1835.
51. Pat'd June 24, 1848. Rec. vol. 10, pp. 248 to 251. Sent to recorder land-titles, June 30, 1848.
52. See No. 24 of Exhibit L.
53. Pat'd Oct. 15, 1829. Rec. vol. 7, pp. 158 to 160. Sent to Jas. H. Breesore, Oct. 22, 1829.
55. Pat'd June 21, 1824. Rec. vol. 4, pp. 457 to 459. Sent to Hon. D. Barton, July 6, 1824.
56. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 7. Sent to Taylor Berry, Nov. 15, 1822.
57. Pat'd June 21, 1820. Rec. vol. 2, p. 277. Sent to Taylor Berry, June 21, 1820.
58. Pat'd Jan'y 10, 1823. Rec. vol. 4, pp. 46 & 47. Sent to Hon. D. Barton, Jan'y 15, 1823.
59. Pat'd Nov. 12, 1858. Rec. vol. 11, p. 378. Sent to recorder land-titles, Nov. 13, 1858.
60. Pat'd June 17, 1820. Rec. vol. 2, p. 265. Sent to Taylor Berry.
61. Pat'd Sept. 23, 1845. Rec. vol. 10, pp. 56 to 59. Sent to Hon. J. H. Relfe, Oct. 6, 1845.
62. Pat'd June 4, 1823. Rec. vol. 4, pp. 134 & 135. Sent to D. Bissel, June 12, 1823.
63. To recorder, June 28, 1871; to C. E. Rittenhouse, Apl. 26, 1872, & recorder. Apl 27, 1872.
64. Pat'd Mch. 26, 1824. Rec. vol. 4, pp. 286 & 287. Sent to J. F. Riland, May 12, 1824.
65. Pat'd Sept. 13, 1822. Rec. vol. 3, p. 29. Sent to John D. Poteet, Nov. 27, 1822. Same as under No. 469 of Exhibit E.

rid claims.—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2738	49 north.....	16 west.	160 acres..	May, 1821.....	.....	Testimony, &c., page 33.
2912	49 north.....	16 west.	160 acres..	.....	.....	Testimony, &c., page 33.
2713	47 north.....	7 east..	160 acres..	November, 1817..	27 November, 1822.	Testimony, &c., page 33.
2856	49 north.....	16 west.	160 acres..	July, 1819.....	26 February, 1821..	Testimony, &c., page 33.
2892	50 north.....	28 west.	200 arpens	March, 1845.....	6 October, 1847....	Testimony, &c., page 34.
2633	49 north.....	9 west..	640 acres..	April, 1824.....	1 June, 1853.....	Testimony, &c., page 34.
2444	48 & 49 north	15 & 16 west.	640 acres..	January, 1820...	24 February, 1820..	Testimony, &c., page 11.
2435	48 & 49 north	15 & 16 west.	640 acres..	September, 1818	11 November, 1823	Testimony, &c., page 12.
2497	48 north.....	17 west.	200 arpens.	March, 1817.....	8 January, 1820....	Testimony, &c., page 26.
2446	50 north.....	15 west.	640 acres..	July, 1819.....	11 March, 1820.....	Testimony, &c., pages 20 & 37.
2665	51 north.....	15 west.	640 acres..	.....	23 February, 1820..	Testimony, &c., page 33.
2501	44 north.....	10 west	640 acres..	February, 1817..	16 May, 1820.....	Testimony, &c., page 41.
2722	49 north.....	15 west.	640 acres..	.....	24 February, 1820..	Testimony, &c., page 40.
2792	52 north	17 west.	640 acres..	.....	1 January, 1820....	Testimony, &c., page 47.
2696	51 north.	18 west.	640 acres..	March, 1836.....	27 August, 1839....	Testimony, &c., page
2562	47 north.....	7 east..	200 arpens.	November, 1817..	27 November, 1822.	Testimony, &c., page 48.
2511	24 north.....	17 & 18 east.	660 arpens.	Not surveyed....	.....	Testimony, &c., page 32.
2457	48 north	14 west.	640 acres..	January, 1817....	8 January, 1820....	Testimony, &c., page 33.
2623	48 & 49 north	15 west.	640 acres..	April 1818.....	25 October, 1819..	Testimony, &c., page 33.
2631	45 north.....	12 west.	640 acres..	.....	24 February, 1820..	Testimony, &c., page 41.
2524	46 north.....	6 east..	640 acres..	June, 1818.....	17 November, 1823.	Testimony, &c., pages 35 & 47.
2725	52 north.....	18 west.	640 acres..	July, 1819.....	23 February, 1820..	Testimony, &c., page 53.
2703	43 north.....	16 west.	640 acres..	.....	23 February, 1820.	Testimony, &c., page 35.

REMARKS.

66. Pat'd Oct. 21, 1820. Rec. vol. 2, p. 339. Sent to Jas. Smith, Oct. 21, 1820.
67. Pat'd March 26, 1824. Rec. vol. 4, pp. 310 to 312. Sent to P. M. Leduc, May 11, 1824.
68. Pat. 3d July, 1820. Record vol. 2, p. 299. Sent to Taylor Berry.
69. Pat'd June 21, 1820. Rec. vol. 2, p. 281. Sent to Taylor Berry.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
70	Thomas Harris	7 August, 1816	22 October, 1816.....	29 April, 1816; No. 319 of Exhibit E.
71	Etienne Dumay....	18 September, 1816.	12 March, 1817.....	29 April, 1816; No. 503 of Exhibit B.
72	Daniel Hazle	7 August, 1816.....	29 January, 1819.....	2 March, 1805; No. 641 of Exhibit A.
73	Richard Hazle	12 August, 1816....	21 January, 1823.....	2 March, 1805; No. 642 of Exhibit A.
74	John Collins.....	12 August, 1816....	22 October, 1816	29 April, 1816; No. 346 of Exhibit E.
75	James Simpson....	28 November, 1815 .	27 February, 1817.....	2 March, 1805; No. 1027 of Exhibit A.
76	Simon Subtil.....	19 August, 1816....	29 July, 1818	2 March, 1805; No. 542 of Exhibit A. 29 April, 1816; No. 177 of Exhibit C.
77	John Baptiste Bellefeuille.	28 November, 1815.	20 September, 1817	29 April, 1815; No. 547 of Exhibit B.
78	John Baptiste Bellefeuille.	28 November, 1815.	29 December, 1818	29 April, 1816; No. 548 of Exhibit B.
79	John Baptiste Bellefeuille.	28 November, 1815.	25 June, 1818.....	2 March, 1805; No. 550 of Exhibit A.
80	George Roddle.....	28 November, 1815.	17 May, 1817	29 April, 1816; No. 577 of Exhibit B.
81	George Roddle	28 November, 1815	23 September, 1817	29 April, 1816; No. 578 of Exhibit B.
82	John Montmenie...	19 August, 1816....	7 July, 1818	2 March, 1805; No. 546 of Exhibit A.
83	James Clemens, senr.	19 August, 1816....	6 December, 1818.....	2 March, 1805; No. 534 of Exhibit A.
84	James Clemens, junr.	19 August, 1816....	7 July, 1818	2 March, 1805; No. 575 of Exhibit A.
85	Thomas W. Caulk, junr.	25 July, 1816	22 October, 1816	29 April, 1816; No. 392 of Exhibit E.
86	Heirs of Hiram Patterson.	23 August, 1816....	4 May, 1818.....	29 April, 1816; No. 422 of Exhibit E.
87	Stephen Boyeau...	21 October, 1816 ...	19 September, 1817.....	2 March, 1805; No. 1075 of Exhibit A. 29 April, 1816; No. 217 of Exhibit C.
88	Gerzard Dorlac....	21 October, 1816 ...	22 October, 1816.....	29 April, 1816; No. 496 of Exhibit B.
89	Noel Burke.....	16 November, 1815.	17 May, 1822	2 March, 1805; No. 1064 of Exhibit A. 29 April, 1816; No. 209 of Exhibit C.
90	Joseph Mitchell, under John Baptiste Barseloux.	16 November, 1815.	8 July, 1818	2 March, 1805; No. 557 of Exhibit A.
91	Louis Lefevre.....	12 November, 1815.	17 November, 1817.....	2 March, 1805; No. 573 of Exhibit A.
92	Stephen Nicholas..	16 November, 1815	16 July, 1817	2 March, 1805; No. 1083 of Exhibit A. 29 April, 1816; No. 223 of Exhibit C.

REMARKS.

69. Pat'd July 3, 1820. Rec. vol. 2, p. 322. Sent to Taylor Berry.
71. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 442. Sent to Taylor Berry, Nov. 15, 1822.
73. Pat'd Feb'y 19, 1827. Rec. vol. 5, pp. 298 & 299. Sent to Hon. John Scott, Feb'y 19, 1827.
74. Pat'd July 3, 1820. Rec. vol. 2, p. 318. Sent to Taylor Berry, July 3, 1820.
75. Pat'd May 1, 1826. Rec. vol. 5, pp. 236 & 237. Sent to H. L. Boon, May 5, 1826.
76. Pat'd Nov. 10, 1858. Rec. vol. 11, p. 379. Sent to recorder land-titles, Nov. 13, 1858.
77. Pat'd March 24, 1827. Rec. vol. 5, pp. 319 & 320. Sent to Hon. D. Barton, Mch. 27, 1827.
78. Pat'd Jan'y 19, 1829. Rec. vol. 7, p. 75. Sent
79. Pat'd Nov. 6, 1827. Rec. vol. 6, pp. 17 to 19. Sent to R. D. Dawson, Nov. 8, 1827.
80. Pat'd June 21, 1820. Rec. vol. 2, p. 280. Sent to Taylor Berry. Certificates Nos. 80, 81, & 358 make up 640 acres.
81. Pat'd June 21, 1820. Rec. vol. 2, p. 283. Sent to Taylor Berry. Certificates Nos. 80, 81, & 358 make up 640 acres.

rid claims.—Continued.

Survey.	Number of—		Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
	Township.	Range.		Execution of the survey.	Return to the recorder.	
2434	49 north.....	15 west.	640 acres..	April, 1817	1 January, 1820....	Testimony, &c., page 38.
2560	49 & 50 north	16 west.	160 acres..	.....	18 January, 1820...	Testimony, &c., page 52.
2880	49 north.....	17 west.	200 arpens.	Not surveyed.....	.....	Testimony, &c., page 35.
2914	46 north.....	6 east ..	200 arpens.	November, 1823..	13 November, 1823.	Testimony, &c., page 48.
2438	49 north.....	16 west.	640 acres..	July, 1819	23 February, 1820..	Testimony, &c., page 46.
2554	49 north.....	16 west.	200 arpens.	June, 1817.....	8 January, 1820....	Testimony, &c., page 25.
2763	49 north.....	15 west.	640 acres..	.....	24 February, 1820..	Testimony, &c., page 48.
2647	48 north....	16 west.	160 acres..	.....	24 February, 1820..	Testimony, &c., page 19.
2847	50 north.....	15 west	160 acres..	.....	24 February, 1820..	Testimony, &c., page 19.
2737	52 north.....	17 west	200 arpens.	July, 1819.....	16 July, 1822	Testimony, &c., page 19.
2586	49 north.....	17 west.	160 acres..	.....	1 January, 1820....	Testimony, &c., page 19.
2651	49 north.....	14 west.	160 acres..	.....	15 January, 1820...	Testimony, &c., page 19.
2746	48 north.....	16 west.	250 arpens.	January, 1820 ...	16 May, 1820	Testimony, &c., page 48.
2749	49 north.....	15 west	400 arpens.	May, 1819	8 January, 1820....	Testimony, &c., page 49.
2765	49 north.....	15 & 16 west.	200 arpens.	July, 1819.....	16 July, 1822	Testimony, &c., page 49.
2466	50 north.....	16 west.	640 acres..	May, 1817	1 January, 1820....	Testimony, &c., page 32.
2468	46 north.....	13 west	640 acres..	May, 1819	1 January, 1820....	Testimony, &c., page 50.
2456	51 north.....	17 west.	640 acres..	October, 1819....	23 February, 1820..	Testimony, &c., page 53.
2467	50 north.....	16 west.	160 acres..	.....	1 January, 1820....	Testimony, &c., page 53.
2924	52 north.....	1 east ..	640 acres..	November. 1822..	3 September, 1820 .	Testimony, &c., pages 9, 47, & 64.
2657	49 north.....	17 west.	300 arpens	Not surveyed	.....	Testimony, &c., page 8.
2679	45 north.....	6 east ..	200 arpens.	August, 1823	10 September, 1837.	Testimony, &c., page 8.
2527	52 north.....	17 west.	640 acres..	July, 1819.....	2 March, 1820.....	Testimony, &c., page 9.

REMARKS.

82. Pat'd Nov. 6, 1827. Rec. vol. 6, pp. 14 & 15. Sent to R. D. Dawson, Nov. 8, 1827. Certificates Nos. 82, 376, 377, & 426 make up 640 acres.
83. Pat'd Nov. 13, 1822. Rc. vol. 3, p. 21. Sent to N. Wash, Nov. 21, 1822.
84. Pat'd Nov. 13, 1822. 'ec. vol. 3, p. 20. Sent to N. Wash, Nov. 21, 1822.
85. Pat'd Nov. 13, 1822. Re. vol. 3, p. 19. Sent to N. Wash, Nov. 21, 1822.
86. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 446. Sent to Taylor Berry, Nov. 15, 1822.
87. Pat'd Nov. 5, 1824. Rec. vol. 4, pp. 525 & 526. Sent to E. T. Cristy, May 25, 1825. Pat. 3d July, 1820. Record, vol. 2, p. 311. (Canceled.)
88. Pat'd Mch. 22. Rec. vol. 6, pp. 106 to 108.
89. Pat'd Nov. 5, 1824. Rec. v. 5, pp. 502 & '3. Sent to Hon. D. Barton, Dec. 11, '24. *See* to Hon. Wm. L. May, Jan'y 30, 1839; to Hon. Geo. S. Houston, Jan'y 20, 1854; to Hon. J. Guthrie, Aug. 7, 1854; to A. C. Sheldon, April 19, 1872.
91. Pat'd July 12, 1828. Rec. vol. 8, pp. 329 to 321. Sent to Wm. Milburn, July 13, 1838.
92. Pat'd July 3, 1820. R. Rec. vol. 2, p. 312. Sent to Taylor Berry, July 3, 1820.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
93	James Scott.....	28 November, 1815.	22 October, 1816.....	29 April, 1816; No. 378 of Exhibit E.
94	Peter Noblesse, under Paul Washburn.	12 November, 1815.	11 November, 1817.....	2 March, 1805; No. 1061 of Exhibit A. 29 April, 1816; No. 206 of Exhibit C.
95	Nicholas Hebert...	16 November, 1815.	17 February, 1817.....	3 March, 1807; No. 1091 of Exhibit A.
96	Louis Lardoise.....	24 November, 1815.	17 February, 1820.....	29 April, 1816; No. 499 of Exhibit B.
97	John B. Olive under John Benoist.	25 July, 1816.....	27 March, 1817.....	29 April, 1816; No. 345 of Exhibit E.
98	Jacob Myers.....	12 August, 1816....	4 December, 1819.....	29 April, 1816; No. 384 of Exhibit E.
99	Eleazar Patterson..	12 August, 1816...	6 January, 1818.....	29 April, 1816; No. 388 of Exhibit E.
100	Jacob Devore.....	7 August, 1816.....	10 January, 1822.....	2 March, 1805; No. 1098 of Exhibit A. 29 April, 1816; No. 227 of Exhibit C.
101	Benjamin Myers...	20 November, 1815.	7 March, 1818.....	2 March, 1805; No. 1100 of Exhibit A. 29 April, 1816; No. 229 of Exhibit C.
102	Wilson Cummings.	8 August, 1816.....	22 October, 1816.....	2 March, 1805; No. 580 of Exhibit A.
103	Eustache Peltier...	28 November, 1815.	24 October, 1816.....	29 April, 1816; No. 560 of Exhibit B.
104	John B. Chartier..	30 November, 1815	19 November, 1816.....	29 April, 1816; No. 575 of Exhibit B.
105	John B. Chartier..	30 November, 1815.	7 July, 1820.....	29 April, 1816; No. 576 of Exhibit B.
106	Andrew Godair....	30 November, 1815	5 March, 1819.....	29 April, 1816; No. 477 of Exhibit B.
107	Helen Cummings ..	6 August, 1816.....	22 October, 1816.....	2 March, 1805; No. 1073 of Exhibit A. 29 April, 1816; No. 215 of Exhibit C.
108	Robert Rogers.....	26 September, 1816.	9 September, 1818	2 March, 1805; No. 1132 of Exhibit A.
109	William Thacker..	26 September, 1816.	26 October 1816.....	2 March, 1805; No. 612 of Exhibit A.
110	Richard J. Waters, under John Horner.	10 August, 1816....	16 November, 1816.....	3 March, 1807; No. 1172 of Exhibit A.
111	Benjamin Fooy, under John Hogan.	5 September, 1816..	16 November, 1816.....	29 April, 1816; No. 356 of Exhibit D.
112	Jonathan Hurley..	12 August, 1816....	10 March, 1823.....	29 April, 1816; No. 279 of Exhibit E.
113	Conrad Wheat, junr.	12 August, 1816....	22 October, 1816.....	2 March, 1805; No. 1039 of Exhibit A.
114	Elias Wheat.....	28 November, 1815.	22 October, 1816.....	29 April, 1816; No. 383 of Exhibit E.
115	Margaret Tash.....	28 November, 1815.	22 October, 1816.....	29 April, 1816; No. 283 of Exhibit E.

REMARKS.

93. Pat'd July 19, 1822. Rec. vol. 2, p. 414 Sent to E. Rector, July 24, 1822.
95. Pat. dated Nov. 22, 1872, vol. 13, p. 485. Sent to rec. l'd-titles, Nov. 22, 1872.
96. Pat'd June 17, 1820. Rec. vol. 2, p. 261. Sent to T. Berry. Corrected & resent July 31, 1821.
97. Pat'd May 7, 1822. Rec. vol. 2, p. 397.
98. This location not recognized as valid, & therefore not surveyed.
99. Pat'd M'ch 26, 1824. Rec. vol. 11, pp. 303 to 305. Sent to M. P. Leduc, May 11, 1824.
100. Pat'd Nov. 24, 1827. Rec. vol. 6, pp. 28 & 29. Sent to Jos. Smith, Nov. 27, 1827.
101. Pat'd M'ch 26, 1824. Rec. vol. 11, pp. 302 & 303. Sent to Hon. Thos. H. Benton, May 12, 1824.
102. Pat'd M'ch 26, 1824. Rec. vol. 4, pp. 293 & 294. Sent to Taylor Berry, May 12, 1824.
103. Pat'd July 16, 1832. Rec. vol. 7, pp. 284 & 285. Sent to A. McAlister, July 17, 1832.
104. Pat'd July 23, 1849. Rec. vol. 10, pp. 369 & 370. Sent to recorder land-titles, July 25, 1849. See to Ben. L. Hickman, July 27, 1872. Certificates Nos. 104, 105, 253, & 362 make up 640 acres.
105. Pat'd to Isidore Moore, assignee of John B. Chartier, Mch. 7, 1827. Rec. vol. 5, p. 09. Sent to Hon. John Scott, Mch. 8, 1827. Certificates Nos. 104, 105, 253, & 362 make up 640 acres.

rid claims.—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2437	51 north.....	17 & 18 west.	640 acres..	May, 1819.....	2 March, 1820.....	Testimony, &c., page 23.
2677	45 & 46 north	7 east..	640 acres..	April, 1818.....	9 May, 1823.....	Testimony, &c., page 9.
2553	45 north.....	5 & 6 east.	160 acres..	December 1817..	.....	Testimony, &c., page 10.
2439	49 north.....	14 west.	160 acres..	.....	.....	Testimony, &c., page 15.
2460	46 north.....	13 west.	640 acres..	.....	8 January, 1820....	Testimony, &c., pages 32 & 39.
.....	Located on site of Fort Clark, (Fort Osage,) on the Missouri River.		640 acres..	.....	.....	Testimony, &c., page 47.
2442	47 & 48 north	5 & 6 east.	640 acres..	February, 1819..	11 December, 1822.	Testimony, &c., page 48.
2440	44 north.....	11 west.	640 acres..	.....	12 April, 1826.....	Testimony, &c., pages 36 & 47.
2448	46 & 47 north	7 east..	640 acres..	March, 1818.....	10 June, 1823.....	Testimony, &c., page 11.
2443	49 north.....	13 west.	200 arpens	April, 1817.....	8 January, 1820....	Testimony, &c., page 44.
2472	45 north.....	7 east..	160 acres..	March, 1818.....	11 October, 1825....	Testimony, &c., pages 19 & 29.
2507	46 north.....	6 east..	160 acres..	December, 1817..	.....	Testimony, &c., pages 30 & 49.
2727	34 north.....	11 east.	160 acres..	.....	1 May, 1825.....	Testimony, &c., pages 30 & 49.
2480	51 north.....	24 west.	160 acres..	August, 1820.....	21 December, 1820.	Testimony, &c., page 31.
2451	49 north.....	16 west.	640 acres..	.....	8 January, 1820....	Testimony, &c., page 35.
2474	50 north.....	16 west.	240 arpens	July, 1819.....	22 February, 1820..	Testimony, &c, page 53.
2477	51 north.....	17 west.	250 arpens	January, 1817...	8 January, 1820....	Testimony, &c., page 53.
2502	46 north.....	6 east..	160 acres..	December, 1817..	1 May, 1824.....	Testimony, &c., page 45.
2504	46 north.....	6 east..	390 arpens	December, 1817..	1 May, 1824.....	Testimony, &c., page 51.
2447	55 north.....	3 west..	640 acres..	April, 1834.....	.....	Testimony, &c., page 46.
2453	44 north.....	5 & 6 east.	640 acres..	May, 1818.....	8 June, 1848.....	Testimony, &c., page 46.
2454	49 north.....	14 west.	640 acres..	November, 1816..	8 January, 1820....	Testimony, &c., page 24.
2455	49 north.....	15 west.	300 arpens	November, 1816..	24 February, 1820..	Testimony, &c., page 26.

REMARKS.

106. Pat'd Nov. 16, 1822. Rec. vol. 3, p. 36. Sent to M. Carroll, Nov. 19, 1822. Certificates Nos. 106 & 403 make up 640 acres.
107. Pat'd M'ch 22, 1823. Rec. vol. 4, pp. 126 to 128. Sent to Wm. Milburn, Mch. 27, 1823.
108. Pat'd July 3, 1820. Rec. vol. 2, p. 308. Sent to Taylor Berry, July 3, 1820.
109. Pat'd July 19, 1822. Rec. vol. 2, p. 413. Sent to Elias Rector, July 24, 1822.
110. Pat'd Oct. 10, 1825. Rec. vol. 5, pp. 111 to 113. Sent to Robt. Simpson, Oct. 12, 1825. Certificates Nos. 110 & 172 make up 640 acres.
112. Pat'd Feb'y 18, 1835. Rec. vol. 8, pp. 56 to 59. Sent to Hon. W. H. Ashley, Feb'y 21, 1835.
113. Pat'd Aug. 2, 1854. Rec. vol. 11, pp. 265 to 266. Sent to recorder land-titles, Aug. 5, 1854. Original confirmation for 450 arpens only; 640 acres given in certificate No. 113 were confirmed by act of 27 July, 1854, entitled "An act for the relief of Conrad Wbest, junr., or his legal represent's." (See No. 41 of Exhibit L.)
114. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 33. Sent to Taylor Berry, Nov. 12, 1822.
115. Pat'd M'ch 26, 1824. Rec. vol. 4, pp. 284 & 286. Sent to J. F. Ryland, Mar. 12, 1824.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
116	Joseph Matthews..	28 November, 1815.	22 November, 1816.....	2 March, 1805; No. 1190 of Exhibit A.
117	James Kirkendall..	12 August, 1816....	22 October, 1816.....	2 March, 1805; No. 1041 of Exhibit A. 29 April, 1816; No. 196 of Exhibit C.
118	John B. Barsaloux.	25 July, 1816.....	16 January, 1817.....	3 March, 1807; No. 1268 of Exhibit A.
119	John B. Barsaloux.	12 August, 1816...	23 October, 1816.....	3 March, 1807; No. 717 of Exhibit A.
120	John Baptiste Langlois.	28 November, 1815.	23 October, 1816.....	29 April, 1816; No. 468 of Exhibit B.
121	Charles Castonget..	24 November, 1815.	.....	29 April, 1816; No. 485 of Exhibit B.
122	John B. St. Mary..	25 July, 1816.....	10 March, 1807.....	29 April, 1816; No. 507 of Exhibit B.
123	Matthias Bolson...	24 November, 1815.	22 October, 1816.....	29 April, 1816; No. 411 of Exhibit E.
124	John Butler, junr..	12 August, 1816...	22 October, 1816.....	29 April, 1816; No. 412 of Exhibit E.
125	Joseph Westbrook	24 November, 1815.	22 October, 1816.....	2 March, 1805; No. 954 of Exhibit A. 29 April, 1816; No. 182 of Exhibit C.
126	Benoni Patterson..	23 August, 1816....	23 October, 1816.....	29 April, 1816; No. 421 of Exhibit E.
127	Peter Lewis.....	26 September, 1816.	27 April, 1818.....	29 April, 1816; No. 294 of Exhibit E.
128	Ambrose Seraphin.	21 October, 1816...	16 November, 1816....	29 April, 1816; No. 514 of Exhibit B.
129	John Lafernait.....	24 November, 1815.	11 December, 1819.....	29 April, 1816; No. 471 of Exhibit B.
130	Peter Perron.....	24 November, 1815.	19 November, 1816.....	29 April, 1816; No. 483 of Exhibit B.
131	George Lait.....	12 August, 1816...	20 April, 1818.....	2 March, 1805; No. 1081 of Exhibit A. 29 April, 1816; No. 221 of Exhibit C.
132	Anthony Moloches, alias Hibernois.	21 October, 1816...	3 March, 1817.....	2 March, 1805; No. 955 of Exhibit A.
133	John B. Langlois ..	24 October, 1816. ..	.....	2 March, 1805; No. 1113 of Exhibit A.
134	Thomas Huff, senr.	18 September, 1816.	26 October, 1816.....	29 April, 1816; No. 336 of Exhibit D.
135	Thomas Huff, junr.	18 September, 1816	13 January, 1817.....	29 April, 1816; No. 337 of Exhibit D.
136	Hezekiah Day.....	28 November, 1815.	17 February, 1820.....	2 March, 1805; No. 1080 of Exhibit A. 29 April, 1816; No. 220 of Exhibit C.
137	Heirs of Benjamin L. Vonderburg.	30 November, 1815	.....	2 March, 1805; No. 1023 of Exhibit A.
138	George Stringer....	26 October, 1816...	.....	29 April, 1816; No. 441 of Exhibit E.

REMARKS.

116. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 2. Sent to Taylor Berry, Nov. 15, 1822.
117. Pat'd June 19, 1820. Rec. vol. 2, p. 262 Sent to Taylor Berry.
119. Pat'd Feb. 16, 1832. Rec. vol. 7, pp. 268 to 270. Sent to F. R. Conway, Mch. 7, 1832. This claim, confirmed by commissioner's certificate No. 1268, is for the same land as their certificate No. 717; consequently New Madrid certificates Nos. 118 & 119 are for the injuries to the same tract of land.
120. Pat'd Mch. 24, 1827. Rec. vol. 5, pp. 321 & 322. Sent to Hon. D. Barton, Mch. 27, 1827.
121. Pat'd Aug. 20, 1821. Rec. vol. 2, p. 368. Sent to John D. Poteet, Sept. 25, 1841. Certificates Nos. 121 & 218 make up 640 acres.
123. Pat'd Nov. 13, 1822, Rec. vol. 3, p. 28. Sent to John D. Poteet, Nov. 27, 1822.
124. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 445. Sent to Taylor Berry, Nov. 15, 1822.
125. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 437. Sent to Taylor Berry, Nov. 15, 1822.

rid Claims.—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2513	49 north.....	14 west.	200 arpens.	.....	8 January, 1820....	Testimony, &c., page 25.
2449	52 north.....	17 west.	640 acres..	.....	1 January, 1820....	Testimony, &c., page 45.
2540	49 north.....	14 west.	160 acres..	July, 1818.....	8 January, 1820....	Testimony, &c., page 32.
2464	45 north.....	5 & 6east	160 acres..	December, 1817..	11 November, 1823.	Testimony, &c., pages 32 & 47.
2459	48 & 49 north	17 west.	160 acres..	March, 1817.....	8 January, 1820....	Testimony, &c., page 22.
2462	46 north.....	17 west.	160 acres..	May, 1817	.....	Testimony, &c., pages 15 & 32.
2461	46 north.....	6 east..	160 acres..	December, 1817..	30 October, 1822...	Testimony, &c., page 32.
2465	44 & 45 north	11 west	640 acres..	February, 1817..	24 May, 1819.....	Testimony, &c., page 16.
2458	50 north.....	16 west	640 acres..	.....	8 January, 1820....	Testimony, &c., page 45.
2463	52 north.....	17 west.	640 acres..	January, 1817...	1 January, 1820...	Testimony, &c., page 15.
2469	50 & 51 north	16 & 17 west.	640 acres..	June, 1819.....	23 February, 1820..	Testimony, &c., page 50.
2610	48 north.....	5 east..	240 arpens.	July, 1855.....	29 November, 1856.	Testimony, &c., page 53.
2503	46 north.....	6 east..	160 acres..	December, 1817..	1 May, 1824.....	Testimony, &c., page 54.
2552	49 north.....	16 west.	160 acres..	.....	24 February, 1822.	Testimony, &c., page 15.
2506	46 north.....	6 east..	160 acres..	December, 1817..	16 October, 1848...	Testimony, &c., page 15.
2473	51 north.....	17 west.	640 acres..	May, 1819.....	13 June, 1822.....	Testimony, &c., page 45.
2555	50 north.....	15 & 16 west.	200 arpens	November, 1818..	24 February, 1820.	Testimony, &c., page 54.
.....	.....	.....	200 arpens.	.....	.....	Testimony, &c., page 54.
2475	49 north.....	17 west.	500 arpens.	December, 1816..	13 April, 1819.....	Testimony, &c., page 52.
2537	49 north.....	17 west.	200 arpens.	November, 1816..	16 February, 1849.	Testimony, &c., page 52.
2551	49 north.....	15 west.	640 acres..	.....	.....	Testimony, &c., page 25.
2529	49 north.....	17 west.	400 arpens.	March, 1817.....	8 January, 1820....	Testimony, &c., page 29.
2528	51 & 52 north	17 west.	640 acres..	May, 1819.....	2 March, 1820.....	Testimony, &c., page 55.

REMARKS.

126. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 2. Sent to Taylor Berry, Nov. 15, 1822.
127. Pat'd 29 Feb., 1872. Rec. vol. 13, pp. 364 & 366. Sent to recorder l'd-titles, Mch. 9, '72.
128. Pat'd Oct. 10, 1825. Rec. vol. 5, pp. 113 to 115. Sent to Robt. Simpson, Oct. 12, 1825.
129. Pat'd Mch. 22, 1823. Rec. vol. 4, pp. 122 & 123. Sent to Wm. Milburn, Mch. 27, 1823
130. Pat'd July 25, 1849. Rec. vol. 10, pp. 367 & 368. Sent to recorder land-titles, July 25, 1849.
131. Pat'd Dec. 6, 1822. Rec. vol. 4, pp. 4 & 5. Sent to Hon. D. Barton, Dec. 24, 1822.
132. Pat'd Feb. 3, 1832. Rec. vol. 7, pp. 270–1. Sent to John Roberts, Mch. 7, 1832. Certificates Nos. 42, 132, 304, & 305 make up 640 acres.
133. Location made but withdrawn.
134. See Register Franklin, in July 31, 1829, and A. F. Barret, July 12, '72.
136. Pat'd Jan. 17, 1820. Rec. vol. 2, p. 266. Sent to Taylor Berry.
138. Pat'd July 14, 1824. Rec. vol. 4, pp. 463 & 464. Sent to Wm. Rector, July 27, 1824.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
139	Isaac Fooy.....	5 September, 1816..	25 April, 1823.....	29 April, 1816; No. 465 of Exhibit E.
140	Elizabeth Jones....	5 September, 1816..	25 April, 1823.....	29 April, 1816; No. 462 of Exhibit E.
141	Louis Baby.....	24 November, 1815.	25 April, 1823.....	29 April, 1816; No. 503 of Exhibit B.
142	John Link.....	18 September, 1816	12 September, 1817....	29 April, 1816; No. 352 of Exhibit E.
143	Robert Masters, under Daniel Frazer.....	18 September, 1816.	27 March, 1827.....	2 March, 1805; No. 1167 of Exhibit A.
144	Robert Cummings.	18 September, 1816.	21 April, 1823.....	29 April, 1816; No. 290 of Exhibit E.
145	Martin Coontz.....	18 September, 1816.	29 May, 1818.....	29 April, 1816; No. 350 of Exhibit E.
146	Daniel Stringer....	24 October, 1816...	17 February, 1820.....	29 April, 1816; No. 293 of Exhibit E.
147	John Hudgeons, ass'e of John Culbertson, who was ass'e of John Watkins.	24 October, 1816...	9 December, 1817.....	2 March, 1805; No. 577 of Exhibit A.
148	John Baker, senr., under George Morgan.	18 September, 1816.	25 April, 1823.....	2 March, 1805; No. 1185 of Exhibit A.
149	John Baker, senr..	18 September, 1816.	27 April, 1817.....	2 March, 1805; No. 535 of Exhibit A.
150	James Y. O'Carrell.	30 November, 1815.	16 June, 1818.....	2 March, 1805, No. 1040 of Exhibit A. 29 April, 1816; No. 195 of Exhibit C.
151	William Robertson.	6 August, 1816.....	6 November, 1816.....	2 March, 1805; No. 1104 of Exhibit A. 29 April, 1816; No. 230 of Exhibit C.
152	Charles Matthews.	28 November, 1815	17 November, 1817.....	2 March, 1805; No. 1183 of Exhibit A.
153	Edward Matthews, senr.	18 September, 1816.	25 April, 1823.....	2 March, 1805; No. 1038 of Exhibit A. 29 April, 1816; No. 194 of Exhibit C.
154	Joseph Brant.....	12 August, 1816....	2 February, 1818.....	2 March, 1805; No. 1180 of Exhibit A.
155	John Cummings...	12 August, 1816....	21 November, 1842....	2 March, 1805; No. 1066 of Exhibit A. 29 April 1816; No. 211 of Exhibit C.
156	Henry Cockerham.	30 November, 1815.	30 October, 1820.....	29 April, 1816; No. 439 of Exhibit E.
157	Joseph Vandenbenden & William Gibson.	29 October, 1816...	31 October, 1816.....	2 March, 1805; No. 1187 of Exhibit A.
158	Benjamin Demint, under Francis Racine.	29 October, 1816...	.....	3 March, 1805; No. 714 of Exhibit A.
159	J. Smith.....	16 November, 1815.	1 November, 1816.....	2 March, 1807; No. 1116 of Exhibit A.
160	James Smith.....	20 November, 1815.	5 November, 1816.....	29 April, 1816; No. 475 of Exhibit B.
161	Joseph Hunot.....	12 August, 1816....	16 June, 1818.....	29 April, 1816; No. 349 of Exhibit E.

REMARKS.

139. Pat'd Feb'y 22, 1842. Rec. vol. 9, pp. 155 to 163. Sent to Wm. Russell, May 19, 1842.
140. Situate in Arkansas.
141. Pat'd Apl. 30, '72. Rec. vol. 13, pp 381 to 384. Sent to rec. l'd-titles, Apl. 30, 1872.
142. Pat'd Feb'y 11, 1822. Rec. vol. 2, p. 386. Sent to Hon. J. D. Barckenridge.
143. *See* to recorder, May 1, 1872. Located under act of 31 March, 1826, entitled "An act for the relief of Richard Matson."
144. Pat'd June 26, 1826. Rec. vol. 5, pp. 269 to 271. Sent to .
145. John Wilson, July 25.
146. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 6. Sent to Taylor Berry, Nov. 15, 1822. (See No. 27 of Exhibit M.)
147. Pat'd Dec. 31, 1828. Rec. vol. 7, pp. 59 to 60. Sent to .
148. Pat. 7th May, 1822. Record vol. 2, p. 399. Sent to Joshua Barker, May 21, '22. *See* to Henry A. King, Apl. 5, 1872.
150. Pat'd June 10, 1862. Rec. vol. 11, pp. 535 to 542. Sent to recorder land-titles, June 18, 1862. *See* to , July 19, '72.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		Reference to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2478	29 north.....	14 east.	640 acres..	June, 1829.....	11 May, 1830.....	Testimony, &c., page 51.
2479	19 south.....	25 west.	640 acres..	.....	22 January, 1824...	Testimony, &c., page 51.
2943	47 north.....	4 east..	160 acres..	October, 1823....	29 November, 1856..	Testimony, &c., page 15.
2490	51 north.....	17 west.	640 acres..	.....	24 February, 1820..	Testimony, &c., page 51.
2735	55 north.....	4 west..	200 arpens.	October 1842....	10 November, 1842.	Testimony, &c., page 52.
2486	52 north.....	17 west.	300 arpens.	January, 1824...	8 January, 1825....	Testimony, &c., page 52.
2499	45 north.....	7 east..	640 acres..	July, 1818.....	5 November, 1822..	Testimony, &c , page 51.
2481	48 & 49 north	16 west.	640 acres..	February, 1820..	11 March, 1820.....	Testimony, &c., page 54.
2482	47 north.....	7 east..	200 arpens.	November, 1817..	26 January, 1824...	Testimony, &c., page 54.
2483	54 north.....	1 west..	200 arpens.	November, 1819..	10 January, 1820...	Testimony, &c., page 52.
2573	47 north.....	2 east..	250 arpens.	December, 1817..	26 October, 1823....	Testimony, &c. page 52.
2498	45 north.....	7 east..	640 acres..	April, 1818.....	26 March, 1862.....	Testimony, &c., page 29.
2495	47 north.....	7 east..	640 acres..	November, 1817..	12 December, 1822.	Testimony, &c., page 34.
2485	45 north. ...	6 east..	200 arpens.	August, 1823....	4 September, 1837..	Testimony, &c., page 26.
2634	44 north.....	9 west.	640 acres..	April, 1824.....	10 August, 1829....	Testimony, &c., page 52.
2609	51 & 52 north	17 west.	200 arpens.	May, 1819.....	3 July, 1821.....	Testimony, &c., pages 31 & 46.
2736	58 north.....	16 west.	640 acres..	.....	26 November, 1842.	Testimony, &c., page 46.
2489	1 & 2 north..	12 west.	640 acres..	.....	.....	Testimony, &c., page 31.
2488	48 north.....	6 east..	350 arpens.	In 1845 or 1846..	.....	Testimony, &c., page 55.
.....	.....	.....	240 arpens	.....	.....	Testimony, &c., page 55.
2491	45 north.....	7 east..	160 acres..	March, 1818.....	26 February, 1823..	Testimony, &c., page 9.
2494	49 north.....	14 west.	160 acres..	August, 1818....	8 January, 1820....	Testimony, &c., page 14.
2500	45 north.....	7 east..	480 acres..	June, 1819.....	5 February, 1859..	Testimony, &c., page 48.

REMARKS.

151. Pat'd May 15, 1855. Rec. vol. 11, pp. 289 & 290. Sent to recorder land-titles, June 19, 1855.
152. Pat'd July 12, 1838. Rec. vol. 8, pp. 326 to 328. Sent to Wm. Milburn, July 13, 1838.
153. Pat'd Oct. 15, 1829. Rec. vol. 7, pp. 160 to 166. Sent to Nathan Kouns, Oct. 22, 1829.
154. Pat'd Nov. 15, 1834. Rec. vol. 8, pp. 31 to 33. Sent to recorder land-titles, Dec. 2, 1834.
155. Pat'd Dec. 29, 1846. Rec. vol. 10, pp 120 & 121. Sent to Enoch Matson, Dec. 30, 1848. *See* to Web. M. Rubey, Sept. 14, 1871. Located under act of 3 March, 1839, entitled "An act for the relief of Enoch Matson."
156. Situate in Arkansas.
157. Located & surveyed within the common-field of Portage des Sioux. Certificates Nos. 157, 226, & 335 make up 640 acres.
158. Not located. Certificate withdrawn.
159. Pat'd May 28, 1827. Rec. vol. 5, pp. 371 & 372. Sent to Wm. Russell, May 31, 1827. July 19, '72, to D. T. Jewell, July 22, 1872.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
162	Thomas Clarke....	28 November, 1815	.....	2 March, 1805; No. 1830 of Exhibit A. 29 April, 1816. No. 188 of Exhibit C.
163	John Bannister, or his legal representatives.	4 November, 1816	23 January, 1818.....	3 March, 1807; No. 254 of Exhibit A.
164	John Brooks.....	4 November, 1816	23 January, 1817.....	2 March, 1805; No. 822 of Exhibit A. 29 April, 1816; No. 168 of Exhibit C.
165	Widow Lacourse..	24 November, 1815	.....	29 April, 1816; No. 545 of Exhibit B.
166	John Clements.....	18 September, 1816	25 January, 1817.....	29 April, 1816; No. 341 of Exhibit D.
167	John Ruddle.....	12 November, 1816	7 April, 1817.....	29 April, 1816; No. 527 of Exhibit B.
168	John Ruddle.....	12 November, 1816	9 August, 1817.....	29 April, 1813; No. 528 of Exhibit B.
169	John Derlan.....	12 November, 1816	12 February, 1817.....	29 April, 1816; No. 581 of Exhibit B.
170	John Derlan.....	12 November, 1816	27 June, 1820.....	29 April, 1816; No. 582 of Exhibit B.
171	Rheneike & Steinback, ass'e of George Ruddle, ass'e of J. Dorlac.	13 November, 1816	6 August, 1817.....	2 March, 1805; No. 571 of Exhibit A.
172	Richard J. Waters, under Benjamin Harrison.	14 November, 1816	14 April, 1823.....	2 March, 1805; No. 581 of Exhibit A.
173	Baptiste Ernaud...	25 July, 1816.....	19 November, 1816.....	2 March, 1805; No. 565 of Exhibit A.
174	Francis Gervais....	20 November, 1815	19 November, 1815.....	2 March, 1805; No. 1079 of Exhibit A. 29 April, 1816; No. 219 of Exhibit C.
175	William Talbot....	18 November, 1816	19 November, 1816.....	2 March, 1805; No. 636 of Exhibit A.
176	Joseph Hunter & Francis Coutely, ass'ees of Joseph Laplante.	18 November, 1816	20 November, 1816.....	3 March, 1807; No. 555 of Exhibit A.
177	John B. Depuis	20 November, 1815	22 April, 1823.....	2 March, 1805; No. 1054 of Exhibit A. 29 April. 1816; No. 200 of Exhibit C.
178	John B. Millet	20 November, 1815	14 May, 1817.....	29 April, 1816; No. 333 of Exhibit E.
179	Baptiste Peltier....	20 November, 1815	21 March, 1817.....	April 29th, 1816; No. 558 of Exhibit B.
180	Samuel Masters...	20 November, 1815	17 December, 1816.....	29 April, 1816; No. 510 of Ex. hibit B.
181	Joseph Dumay....	24 November, 1815	11 February, 1817.....	29 April, 1816; No. 502 of Exhibit B.
182	Louis St. Aubin....	12 November, 1815	20 June, 1818.....	29 April, 1816; No. 525 of Exhibit B.
183	Louis St. Aubin....	12 November, 1815	27 September, 1821	29 April, 1816; No. 526 of Exhibit B.
184	Henry Peyroux, under Francis Hamelin.	30 November, 1815	7 April, 1817.....	29 April, 1816; No. 463 of Exhibit B.

REMARKS.

161. Pat'd Aug. 30, 1859. Rec. vol. 11, pp. 405 to 413. Sent to recorder land-titles, Nov. 13, 1860. Certificates Nos. 37 & 161 make up 640 acres.
162. Pat'd Aug. 20, 1821. Rec. vol. 2, p. 367. Sent to John D. Poteet, Sept. 5, 1821.
163. Pat'd Sept. 13, 1823. Rec. vol. 4, pp. 205 & 206. Sent to Taylor Berry, Sept. 13, 1823.
164. See to G. W. A. Brantley, July 12, '72. See to G. W. A. Brantley, July 27, 1872.
165. Pat'd Oct. 30, 1828. Rec. vol. 7, pp. 43 & 44. Sent to J. Spaulding, Nov. 3, 1828.
166. Pat'd May 7, 1222. Rec. vol. 2, pp. 403. Sent to Taylor Berry, May 15, 1822.
167. Pat'd Sept. 30, 1827. Rec. vol. 8, pp. 251 to 253. Sent to Hon. John Miller, Oct. 6, 1837.
168. Pat'd Aug. 20, 1821. Rec. vol. 2, p. 368. Sent to John D. Poteet, Sept. 5, 1821.
172. Pat'd Aug. 31, 1825. Rec. vol. 5, p. 84. Certificates Nos. 110 & 172 make up 640 acres. Situate in Arkansas.

rid claims.—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2559	47 north.....	17 west	450 arpens	.....	2 November, 1819..	Testimony, &c., page 26.
2706	47 north.....	3 west..	300 arpens	February, 1817..	16 May, 1820.....	Testimony, &c., page 55.
2541	45 & 46 north	7 east..	709 arpens	March, 1818.....	5 November, 1822..	Testimony, &c., page 55.
2496	45 north....	6 east..	160 acres	December, 1817..	28 February, 1825..	Testimony, &c., page 17.
2542	49 north.....	14 west	200 arpens	February, 1817..	8 January, 1820....	Testimony, &c., page 52.
2570	46 north.....	6 east..	160 acres..	December, 1817..	25 April, 1826.....	.....
2624	48 north.....	15 west	160 acres..	December, 1818..	25 October, 1819....	.....
2550	45 north.....	8 west	160 acres..	March, 1817.....	16 May, 1820.....	Testimony, &c., page 3.
2630	50 north.....	29 west	160 acres..	October, 1839....	2 December, 1839..	Testimony, &c., page 3.
2625	46 north.....	5 & 6 east.	160 acres..	May, 1849.....	20 August, 1849....	Testimony, &c., page 56.
2901	19 south.....	26 west	480 acres..	.....	25 January, 1825...	Testimony, &c., page 20.
2509	50 north.....	16 west	200 arpens	.....	1 January, 1820....	Testimony, &c., page 32.
2508	46 north.....	6 east	640 acres..	December, 1817..	.....	Testimony, &c., page 11.
2505	46 north.....	6 east	200 arpens	December, 1817..	2 February, 1848...	Testimony, &c., page 46.
2510	45 north.....	11 west	160 acres..	February, 1817..	1 January, 1820....	Testimony, &c., page 48.
2599	52 north.....	17 west	640 acres..	.....	12 April, 1826.....	Testimony, &c., page 11.
2583	49 north.....	16 west	640 acres..	June, 1819.....	7 September, 1819..	Testimony, &c., pages 10 & 48.
2565	51 north.....	17 west	160 acres..	June, 1817.....	8 January, 1820....	Testimony, &c., page 12.
2522	45 north.....	7 east	160 acres..	Not surveyed....	.....	Testimony, &c., page 12.
2547	52 north.....	18 west	160 acres..	March, 1817.....	8 January, 1820....	Testimony, &c., page 17.
2734	48 north.....	16 west	160 acres..	May, 1819.....	8 January, 1820....	Testimony, &c., page 2.
2946	50 north.....	16 west	160 acres by certificate; true area of survey = 156.58 acres.	.....	18 December, 1827	Testimony, &c., page 2.
2571	45 north.....	7 east	160 acres..	.....	24 January, 1824...	Testimony, &c., page 28.

REMARKS.

173. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 439. Sent to Taylor Berry, Nov. 15, 1822.
174. Pat. dated Apl. 5th, 1872. Rec. vol. 13, p. 369 to . Sent to rec. land-titles, Apl. 9, '72.
175. Pat'd July 22, 1842. Rec. vol. 10, pp. 264 to 266. Sent to recorder land-titles, Aug. 22, 1842.
176. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 441. Sent to Taylor Berry, Nov. 15, 1822.
177. Pat'd June 20, 1828. Rec. vol. 6, pp. 238 & '9. (See No. 4 of Exhibit L.)
178. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 30. Sent to John D. Poteet, Nov. 27, 1822.
180. Located in the Saint Louis common-field.
181. Certificate' Nos. 181 & 405 make up 640 acres.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
185	Henry Peyroux, under John S. Guerin.	30 November, 1815	25 December, 1816.....	29 April, 1816; No. 462 of Exhibit B.
186	Henry Peyroux, under Hugh McDonald Chisholm.	26 November, 1816.	30 November, 1816.....	29 April, 1816; No. 351 of Exhibit D.
187	Henry Peyroux, under Hugh McDonald Chisholm.	26 November, 1816.	14 February, 1820.....	3 March, 1807; No. 696 of Exhibit A.
188	Peter Dapron	26 November, 1816.	28 June, 1817.....	2 March, 1805; No. 600 of Exhibit A.
189	Robert McCoy, under Francis Lalande.	24 October, 1816...	7 September, 1818	3 March, 1807; No. 1122 of Exhibit A.
190	Joseph Story, under Louis Lardoise.	26 August, 1816....	29 December, 1817.....	29 April, 1816; No. 432 of Exhibit E.
191	Michael Amoureux, under James Gill.	26 November, 1816.	2 December, 1816.....	3 March, 1807; No. 1176 of Exhibit A.
192	Joseph Millet.....	20 November, 1815.	1 March, 1818.....	29 April, 1816; No. 334 of Exhibit E.
193	Mary, widow of Isidore Dupuis.	18 November, 1816.	1 November, 1817.....	29 April, 1816; No. 357 of Exhibit E.
194	Peter Antoine Laforge.	18 November, 1816.	20 July, 1818	29 April, 1816; No. 361 of Exhibit E.
195	Louis St. Aubin...	12 November, 1815.	15 October, 1821.....	29 April, 1816; No. 531 of Exhibit B.
196	Louis St. Aubin...	12 November, 1815.	15 April, 1823.....	29 April, 1816; No. 532 of Exhibit B.
197	Francis R. Dupin..	30 November, 1815.	18 April, 1817.....	29 April, 1816; No. 500 of Exhibit B.
198	Ann Claude Frances Riche Dupin.	30 November, 1815.	23 April, 1823.....	3 March, 1807; No. 646 of Exhibit A.
199	John Patterson....	4 December, 1816..	30 June, 1817.....	29 April, 1816; No. 420 of Exhibit E.
200	Abraham Ruddell..	4 December, 1816..	11 August, 1818.....	2 March, 1805; No. 533 of Exhibit A.
201	Andrew Robertson, sen'r.	4 December, 1816..	16 April, 1823.....	2 March, 1805; No. 618 of Exhibit A. 29 April, 1816; No. 178 of Exhibit C.
202	Luc Bellefeuille...	4 December, 1816..	13 December, 1816.....	2 March, 1805; No. 552 of Exhibit A.
203	Peter Francis Laforge.	10 December, 1816.	8 April, 1819.....	29 April, 1816; No. 362 of Exhibit E.
204	Thomas Twenty-men.	17 December, 1816.	.....	3 March, 1807; No. 681 of Exhibit A.
205	Joseph St. Mary or his legal representatives.	17 December, 1816.	26 December, 1816.....	3 March, 1807; No. 684 of Exhibit A.
206	Henry Masters....	7 August, 1816....	25 April, 1823.....	29 April, 1816; No. 433 of Exhibit E.
207	Benjamin Demint..	8 May, 1817.....	11 March, 1823	2 March, 1805; No. 1168 of Exhibit A.

REMARKS.

186. Pat'd March 24, 1827. Rec. vol. 5, pp. 316 & '17. Sent to J. H. Bensore, Mch. 27, 1837.
187. Pat'd Mch. 24, 1827. Rec. vol 5, pp. 315 & 316.
188. Pat'd Oct. 6, 1840. Rec. vol. 9, pp. 128 to 131. Sent to A. J. Graves, Oct. 16, 1840.
189. Pat'd July 2, 1820. Rec. vol. 2, p. 303. Sent to Taylor Berry, July 3, 1820.
190. Pat'd Feb'y 20 1847. Rec. vol. 10, pp. 135 to 138. Sent to D. M. Hickman, May 1, 1847. Certificates Nos. 190, 248, 249, & 430 make up 640 acres.
191. Pat'd 3 July, 1820. Record vol. 2, p. 291. Sent to Taylor Berry, July 3, 1820.
192. Pat'd Sept. 6, 1823. Rec. vol. 4, pp. 198 & 199. Sent to Taylor Berry, May 12, 1824.
193. Pat'd June 30, 1820. Rec. vol. 2, p 287.

rid claims.—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2525	51 north.....	18 west.	160 acres..	January, 1817...	1 January, 1820....	Testimony, &c., page 28.
2515	48 north.....	16 west.	160 acres..	September, 1818.	23 February, 1820..	Testimony, &c., page 56.
2516	49 north.....	17 west.	160 acres..	.....	12 November, 1823.	Testimony, &c., page 56.
2608	51 north.....	17 west.	207 arpens.	May, 1840.....	10 July, 1840	Testimony, &c., page 56.
2785	52 north.....	19 west.	240 arpens.	July, 1819.....	23 February, 1820..	Testimony, &c., page 54.
2521	49 north.....	16 west.	200 arpens.	September, 1841	17 February, 1842..	Testimony, &c., page 50.
2517	52 north.....	16 west.	240 arpens.	October, 1819....	1 January, 1820....	Testimony, &c., page 56.
2716	45 north.....	4 east ..	640 acres..	April, 1818.....	9 May, 1823.....	Testimony, &c., page 10.
2671	47 north.....	14 west.	640 acres..	.....	24 February, 1820..	Testimony, &c., page 11.
2539	51 north.....	17 west.	640 acres..	May, 1819.....	16 May, 1820.....	Testimony, &c., page 13.
2576	49 north.....	16 west.	160 acres..	.....	24 February, 1830..	Testimony, &c., page 5.
2915	50 north.....	16 west.	160 acres..	April, 1832.....	16 May, 1857.....	Testimony, &c., page 5.
2572	50 north.....	18 west.	160 acres..	June. 1817.....	8 January, 1820....	Testimony, &c., page 31.
2603	51 north....	17 west	250 arpens.	October, 1823....	6 October, 1823....	Testimony, &c., page 31.
2611	44 north.....	10 west.	640 acres..	May, 1819.....	6 January, 1820....	Testimony, &c., page 45.
2654	49 north.....	16 west	200 arpens.	September, 1818.	8 January, 1820....	Testimony, &c., page 56.
2538	49 north.....	18 west.	640 acres..	January, 1817....	8 January, 1820....	Testimony, &c., page 35.
2520	50 north.....	19 west.	200 arpens.	.....	8 January, 1820....	Testimony, &c., page 49.
2519	57 north.....	6 west..	640 acres..	.....	.....	Testimony, &c., page 57.
2602	52 north.....	16 west.	240 arpens.	January, 1818....	8 June, 1820.....	Testimony, &c., page 44.
2526	46 north.....	3 east ..	160 acres..	June, 1817.....	11 December, 1822.	Testimony, &c., page 56.
2884	21 north.....	14 east.	640 acres..	August, 1847	31 January, 1848...	Testimony, &c., pages 47 & 48.
2683	48 north.....	4 west..	240 arpens.	Not surveyed....	.....	Testimony, &c., page 47.

REMARKS.

196. Pat'd Mch. 2, 1864. Rec. vol. 11, pp. 487 to 489. Sent to recorder land-titles, Mch. 2, 1864.
198. Pat'd May 27, 1824. Rec. vol. 4, pp. 374 & 375. Sent to Hon. John Scott, May 29, 1824.
199. Pat'd May 7, 1822. Rec. vol. 2, p. 140. Sent to Wm. Rector, May 21, 1822.
200. Pat'd July 3, 1820. Rec. vol. 2, p. 294. Sent to Taylor Berry, July 3, 1820.
202. Pat'd July 28, 1835. Rec. vol. 5, pp. 73 to 75. Sent to D. M. Hickman, July 29, 1835.
203. Pat'd Mch. 22, 1823. Rec. vol. 4, p. 121. Sent to Wm. Milburn, Mch. 27, 1823.
204. Pat'd July 3, 1820. Rec. vol. 2, p. 296. Sent to Taylor Berry, July 3, 1820.
205. Pat'd Oct. 23, 1847. Rec. vol. 10, pp. 183 & 184. Sent to W. W. Gitt, Nov. 16, 1847.
206. Pat'd July 28, 1848. Rec. vol. 10, pp. 278 to 282. Sent to R. G. Watson, Aug. 22, 1848.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim. and reference to previous exhibits.
208	Jesse Blanks	20 December, 1816.	3 January, 1822.....	2 March, 1805; No. 533 of Exhibit A.
209	John Ruddell.....	25 December, 1816.	25 June, 1817.....	2 March, 1805; No. 617 of Exhibit A.
210	Thomas Brown....	25 December, 1816.	26 July, 1817.....	2 March, 1805; No. 1835 of Exhibit A. 29 April, 1816; No. 191 of Exhibit C.
211	Joseph Jacobs.....	25 December, 1816.	4 June, 1818.....	2 March, 1805; No. 572 of Exhibit A.
212	Edward Robertson, under Elmsley Jones.	25 December, 1816.	10 November, 1817.....	29 April, 1816; No. 296 of Exhibit E.
213	Charles Lucas, under Rezon Bowie.	25 December, 1816.	5 March, 1813.....	29 April, 1816; No. 338 of Exhibit D.
214	Franky Bradbourn's representatives.	25 December, 1816.	27 December, 1817.....	2 March, 1805; No. 334 of Exhibit A.
215	Samuel Parker....	25 December, 1816.	20 November, 1817.....	29 April, 1816; No. 285 of Exhibit E.
216	Richard Masters...	25 December, 1816.	12 March, 1817.....	2 March, 1805; No. 1199 of Exhibit A.
217	Legal representatives of David Bowie.	25 December, 1816.	30 April, 1817.....	29 April, 1816; No. 339 of Exhibit D.
218	Charles Castonget..	25 December, 1816.	4 April, 181	29 April, 1816; No. 365 of Exhibit E.
219	Peter Louesson....	25 December, 1816.	4 April, 1817	29 April, 1816; No. 395 of Exhibit E.
220	Stephen L. Huiller	25 December, 1816.	14 April, 1823.....	29 April, 1816; No. 337 of Exhibit E.
221	German Ouillett...	25 December, 1816.	8 July, 1818	3 March, 1807: No. 599 of Exhibit A.
222	John B. Thibeaud	27 December, 1816.	24 May, 1817	29 April, 1816; No. 516 of Exhibit B.
223	Peter Doroche.....	27 December, 1816.	10 December, 1819.....	3 March, 1807; No. 1277 of Exhibit A.
224	Charles Lucas.....	31 December, 1816.	25 July, 1817	2 March, 1805; No. 320 of Exhibit A. 29 April, 1816; No. 166 of Exhibit C.
225	Reese Shelby.....	31 December, 1816.	26 June, 1817.....	29 April, 1816; No. 316 of Exhibit E.
226	Joseph Vandenbendon, ass'e of Jean Voit.	31 December, 1816	31 December, 1816.....	29 April, 1816; No. 413 of Exhibit E.
227	Joseph Lapointe...	2 January, 1817....	.....	29 April, 1816; No. 332 of Exhibit E.
228	Charles Curotte....	2 January, 1817....	20 July, 1818	29 April, 1816; No. 363 of Exhibit E.
229	Thomas W. Waters & Co., under John Kennedy...	2 January, 1817....	22 September, 1818	29 April, 1816, No. 292 of Exhibit E.
230	Mary Smith	January 2d, 1817...	.....	2 March, 1805: No. 1033 of Exhibit A. 29 April, 1816; No. 189 of Exhibit C.

REMARKS.

209. New location in lieu of this pat'd Mch. 5, 1856. Rec. vol. 3, pp, 157½ & 158. Miscellaneous records, div. B. Allowed to relocate elsewhere by act of 8 August, 1848, entitled "An act for the relief of the legal representatives of John Ruddle." (See No. 40 of Exhibit L.)

210. Pat'd May 30, 1829. Rec. vol. 7, pp. 133 to 135. Sent to Thos. Duley, June 8, 1829.

211. Pat'd June 28, 1824. Rec. vol. 4, pp. 460 & 461. Sent to Hon. D. Barton July 6, 1824.

212. Pat'd Oct. 1, 1840. Rec. vol. 9, pp. 118 to 120. Sent to Nathan Kouns, Oct. 3, 1840.

213. The quantity of 380 arp's, improperly given to this certificate, has been reduced to 129.58 acres by act of 3 February, 1857. (Lee letters of the Commissioner, dated 9 May, 1838, 8 January, 1848, & 26 October, 1857. (See also No. 31 of Exhibit L.) Certificates Nos. 213 & 224 make up 640 acres.

215. Pat'd Sep. 27, 1847. Rec. vol. 10, pp. 173 to 175. Sent to recorder land-titles, Sept. 29, 1847.

216. Pat'd Dec. 1, 1824. Rec. vol. 5, pp. 2 & 3. Sent to John , Dec. 11, 1824.

217. Pat'd 3d July, 1820. Rec. vol. 2, p. 217. Sent to Taylor Berry, July 3, 1820.

218. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 4. Sent to Taylor Berry, Nov. 13, 1822. Certificates Nos. 121 & 218 made up 640 acres.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2690	44 north.....	10 west.	200 arpens	May, 1844	17 October, 1844 ...	Testimony, &c., page 57.
2604	41 & 42 north.	2 west..	350 arpens	December, 1843..	.....	Testimony, &c., page 44.
2621	44 north.....	10 west	640 acres..	June, 1818	16 May, 1820	Testimony, &c., page 52.
2643	47 north.....	12 west	200 arpens	January, 1819....	24 February, 1820 .	Testimony, &c., page 44.
2674	45 north....	9 west..	300 arpens.	April, 1824.....	23 November, 1839.	Testimony, &c., page 54.
3341	58 north.....	6 west..	380 arpens, by certificate; area of survey = 129.50 acres. (See remarks.)	November, 1857..	22 December, 1857. (Returned to the Commissioner of the General Land-Office.)	Testimony, &c., page 57.
2595	48 north.....	17 west	200 arpens.	April, 1820.....	16 May, 1820	Testimony, &c., page 57.
2682	46 north.....	17 west.	200 arpens.	May, 1829	22 November, 1831.	Testimony, &c., page 55.
2561	48 north.....	7 east ..	300 arpens.	.....	8 January 1820....	Testimony, &c., page 57.
2574	48 north.....	14 west 17 west	200 arpens	January, 1820....	23 February, 1820..	Testimony, &c., page 50.
2569	51 north.....		480 acres ..	May, 1817	8 January, 1820....	Testimony, &c., page 30.
2568	51 north.....	18 west	640 acres ..	May, 1817	8 January, 1820....	Testimony, &c., page 40.
2697	51 & 52 north.	19 west.	640 acres ..	.....[1]	5 December, 1822..	Testimony, &c., page 39.
2532	45 north.....	2 west..	200 arpens	March, 1820.....	16 May, 1820	Testimony, &c., page 36.
2588	51 north.....	16 west.	160 acres ..	.....	1 January, 1820....	Testimony, &c., page 8.
2710	50 north.....	16 west	235 arpens.	January, 1820....	23 February, 1820 .	Testimony, &c., page 56.
2619	51 north.....	18 west.	600 arpens.	January, 1820....	23 February, 1820 .	Testimony, &c., page 57.
2696	52 north.....	16 west.	640 acres ..	.....	1 January, 1820....	Testimony, &c., page 57.
2531	49 north.....		300 arpens.	May, 1819	1 January, 1820....	
2564	52 north.....	17 & 18 west.	640 acres ..	April, 1817	8 January, 1820....	Testimony, &c., page 38.
2535	51 & 52 north	17 west.	640 acres ..	May, 1819	2 March, 1820.....	Testimony, &c., page 40.
2662	45 north.....	12 west.	500 arpens.	May, 1819	12 June, 1819.....	Testimony, &c., page 58.
2548	48 north.....	6 west..	640 acres ..	.....	16 May, 1820.....	Testimony, &c., page 57.

REMARKS.

219. Pat'd July 3, 1820. Rec. vol. 2, p. 207. Sent to Taylor Berry, July 3, 1820.
221. Pat'd Mch. 26, 1824. Rec. vol. 5, pp. 295 & 296. Sent to H. B. Conway, May 17, 1824.
222. Pat'd June 21, 1820. Rec. vol. 2, p. 278. Sent to Taylor Berry. Certificates Nos. 222 & 333 make up 640 acres.
223. Pat'd July 3, 1820. Rec. vol. 2, p. 292. Sent to Taylor Berry, July 3, 1820.
224. Pat'd July 3, 1820. Rec. vol. 2, p. 306. Sent to Taylor Berry, July 3, 1820.
225. Pa'd 21, 1820. Rec. vol. 2, p. 275. Sent to Taylor Berry.
226. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 440. Sent to Taylor Berry, Nov. 15, 1822. Certificates Nos. 157, 226 & 335 make up 640 acres.
227. Pat'd Feb'y 22, 1841. Rec. vol. 9, pp. 144. Sent to Hiram Craig, Mch. , 1841.
228. Pat'd July 11, 1822. Rec. vol. 2, p. 417. Sent to E. Rector, July 24, 1822.
229. Pat'd Jan'y 31, 1845. Rec. vol. 5, pp. 30 to 32.
230. Pat'd Mch. 22, 1823. Rec. vol. 8, p. 122. Sent to W. Milburn, Mch. 27, 1823.

357 EXHIBIT F.—*New Mad*

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
231	Ciril Leduc.....	16 November, 1815	3 March, 1817.....	3 March, 1807; No. 1089 of Exhibit A.
232	James Brady, under Sarah Williamson	4 January, 1817....	18 April, 1820	2 March, 1805; No. 1011 of Exhibit A.
233	Jesse Pendegrass ..	6 January, 1817....	6 April, 1819.....	29 April, 1816; No. 427 of Exhibit E.
234	Widow Lacourse..	4 November, 1815..	July, 1818.....	29 April, 1816; No. 546 of Exhibit B.
235	Francis Hudson, senr.	28 November, 1815	10 August, 1818.....	2 March, 1805; No. 1177 of Exhibit A. 29 April, 1816; No. 234 of Exhibit C.
236	Benjamin Fooy, under William Porter.	14 January, 1817...	11 April, 1823.....	2 March, 1805; No. 1139 of Exhibit A.
237	Caty Gollowhorn ..	14 January, 1817 ..	21 December, 1819....	29 April 1816; No. 464 of Exhibit E.
238	Peter Labornbarde	18 January, 1817...	4 June, 1817.....	3 March, 1807; No. 598 of Exhibit A.
239	Jacob Friend.....	22 January, 1817 ..	3 February, 1817	2 March, 1805; No. 640 of Exhibit A.
240	Edward Robertson, junr.	23 January, 1817...	31 May, 1817.....	2 May, 1805; No. 1099 of Exhibit A. 29 April, 1816; No. 220 of Exhibit C.
241	Alexander Bailly..	23 January, 1817...	6 October, 1818.....	2 March, 1805; No. 637 of Exhibit A.
242	Edward Robertson, under John McCaulkin	23 January, 1817..	2 February, 1819.....	2 March, 1805; No. 1186 of Exhibit A.
243	Joseph Payne	30 November, 1815	.....	2 March, 1805; No. 434 of Exhibit A.
244	Eloi Dejarlais.....	28 November, 1815.	27 September, 1821....	2 March, 1805; No. 554 of Exhibit A.
245	Joseph Laplante...	12 November, 1815.	23 July, 1818	29 April, 1816; No. 515 of Exhibit B.
246	John Neal.....	28 January, 1817...	20 January, 1819.....	29 April, 1816; No. 375 of Exhibit E.
247	Luke Devore.....	28 November, 1815	24 May, 1817.....	29 April, 1816; No. 509 of Exhibit B.
248	Joseph Story.....	28 November, 1815	12 June, 1820.....	29 April, 1816; No. 497 of Exhibit B.
249	Joseph Story, under Louis Tirarde.	28 November, 1815.	14 May, 1817	3 March, 1807; No. 591 of Exhibit A.
250	Robert McCoy.....	17 February, 1817.	24 May, 1817	3 March, 1807; No. 1121 of Exhibit A.
251	Louis Sojourner...	February, 1817..	2 June, 1817.....	29 April, 1816; No. 318 of Exhibit E.
252	Richard Masters, under Benjamin Paterson.	18 February, 1817..	27 September, 1817....	29 April, 1816; No. 373 of Exhibit E.
3	Baptiste Chartier..	9 January, 1817....	25 August, 1817.....	2 March, 1805; No. 559 of Exhibit A.

REMARKS.

231. Pat'd Jan'y 31, 1825. Rec. vol. 5. p. 23.
232. Pat'd Apl. 1, 1824. Rec. vol. 4, pp. 291 & 292. Sent to Hon. John Scott, Apl. 26, 1824. Pat'd Nov. 13, 1822. Rec. v. 2, p. 435. Sent to Taylor Berry, Nov. 15, 1822. Canceled.
233. Pat'd Mch. 22, 1823. Rec. vol. 4, pp. 128 & 129. Sent to Wm. Milburn, Mch. 27, 1823.
234. Pat'd Nov. 6, 1827. Rec. vol. 6, pp. 10 & 11. Sent to A. D. Dawson, Nov. 8, 1827.
235. Pat'd June 21, 1820. Rec. vol. 2, p. 284. Sent to Taylor Berry.
236. Pat'd Mch. 12, 1838. Rec. vol. 8, pp. 282 to 285. Sent to A. Sevier, Apl. 26, 1838. 236. Located in Arkansas.
237. Situate in Arkansas.
238. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 444. Sent to Taylor Berry, Nov. 15, 1822.
239. Pat'd May 27, 1824. Rec. vol. 4, pp. 377 & 378 Sent to Hon. John Scott, May 29, 1824.
240. Pat'd June 21, 1820. Rec. vol. 2, p. 274. Sent to Taylor Berry.

id claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2556	49 north	14 west	160 acres	.....	24 February, 1820	Testimony, &c., page 9.
2694	51 north	31 west	330 arpens	May, 1820	17 July, 1822	Testimony, &c., page 58.
2664	57 north	5 west	400 arpens	July, 1819	16 May, 1820	Testimony, &c., page 41.
2762	48 north	16 west	160 acres	.....	24 February, 1820	Testimony, &c., page 17.
2770	49 north	14 west	640 acres	.....	9 January, 1820	Testimony, &c., page 20.
2923	3 north	14 west	320 arpens	.....	.....	Testimony, &c., page 50.
2933	8 north	8 & 9 east.	640 acres	June, 1824	30 June, 1828	Testimony, &c., page 51.
2598	49 north	16 west.	200 arpens	January, 1820	23 February, 1820	Testimony, &c., page 58.
2545	48 north	16 west	200 arpens	September, 1818	24 February, 1820	Testimony, &c., page 59.
2593	50 north	16 west	640 acres	.....	1 January, 1820	Testimony, &c,, page 59.
2807	48 north	16 west	300 arpens	May, 1819	8 January, 1820	Testimony, &c., pages 58 & 59.
2886	57 north	5 west	200 arpens	July, 1819	16 May, 1820	Testimony, &c., page 59.
2543	49 north	14 west	160 acres	.....	24 February, 1820	Testimony, &c., page 30.
2597	51 north	16 & 17 west	200 arpens	October, 1823	6 October, 1823	Testimony, &c., page 20.
2760	45 north	4 east	160 acres	March, 1818	17 June, 1828	Testimony, &c., pages 7, 27, & 47.
2650	49 north	14 west	640 acres	.....	24 February, 1820	Testimony, &c., page 33.
2587	52 north	16 west	160 acres	.....	1 January, 1820	Testimony, &c., page 22.
2575	53 north	20 west	160 acres; area of survey, 156.48 acres.	November, 1842	.....	Testimony, &c., page 22.
2581	51 & 52 north	16 west	200 arpens	November, 1820	29 November, 1820	Testimony, &c., page 22.
2589	52 north	16 west	240 arpens	June, 1819	23 February, 1820	Testimony, &c., page 54.
2594	48 & 49 north	16 west	640 acres	November, 1833	.....	Testimony, &c., page 52.
2655	51 north	18 west	400 arpens	January, 1820	16 May, 1820	Testimony, &c., page 54.
2632	47 north	3 east	250 arpens	September, 1817	16 May, 1820	Testimony, &c., page 58.

REMARKS.

241. Pat'd May 27, 1824. Rec. vol. 4, pp. 370 & 371. Sent to Hon. John Scott, May 29, 1824.
242. Pat'd Oct. 23, 1854. Rec. vol. 10, pp. 181 & 182. Sent to W. W. Gitt, Nov. 5, 1847.
243. Pat'd Nov. 22, 1820. Rec. vol. 2, p. 347. Sent to Hon. D. Barton, Nov. 23, 1820.
245. Patent recorded vol. 12, p. 333. Sent to recorder of l'd-titles, June 23, '71.
246. Pat'd Feb. 19, 1827. Rec. vol. 2, p. 300. Sent to R. Wash, Feb'y 10, 1827.
247. Pat'd June 21, 1820. Rec, vol. 2, p. 286. Sent to Taylor Berry.
248. Pat'd May 10, 1851. Rec. vol. 11, pp. 123 & 124. Sent to recorder of land-titles, June 4, 1857. Certificates Nos. 190, 248, 249, & 430 make up 640 acres.
249. Pat'd May 7, 1822. Rec. vol. 2, p. 401. Sent to Taylor Berry, May 15, 1822. Certificates Nos. 190, 248, 249, & 430 make up 640 acres.
250. Pat'd July 3, 1820. Rec. vol. 2, p. 300. Sent to Taylor Berry, May 3, 1822.
252. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 56 & 57. Sent to Taylor Berry, Feb'y 22, 1823.
253. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 432. Sent to Taylor Berry, Nov. 15, 1822. Certificates Nos. 104, 105, 253, & 362 make up 640 acres.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
254	Peter Power	18 February, 1817	22 April, 1823	29 April, 1816; No. 336 of Exhibit E.
255	Joseph Dorion	6 August, 1816	21 March, 1817	29 April, 1816; No. 569 of Exhibit B.
256	Joseph Dorion	6 August, 1816	6 January, 1819	29 April, 1816; No. 570 of Exhibit B.
257	John Johnston	18 February, 1817	12 May, 1817	2 March, 1805; No. 1069 of Exhibit A.
258	James Smith	18 February, 1817	3 December, 1817	29 April, 1816; No. 440 of Exhibit E.
259	William Bouillette	20 February, 1817		2 March, 1805; No. 332 of Exhibit A.
260	John Masters	20 February, 1817	24 October, 1817	2 March, 1805; No. 532 of Exhibit A.
261	Hugh Burnett	7 August, 1816	16 December, 1818	29 April, 1816; No. 282 of Exhibit E.
262	Ransom Thacker	6 March, 1817	22 July, 1820	2 March, 1805; No. 433 of Exhibit A.
263	Eloy Dejarlais	30 November, 1815	12 February, 1818	29 April, 1816; No. 549 of Exhibit B.
264	Eloy Dejarlais	30 November, 1815	24 February, 1819	29 April, 1816; No. 550 of Exhibit B.
265	David Wentzell, under Eli Pettibone.	8 March, 1817	14 May, 1817	2 March, 1805; No. 1111 of Exhibit A.
266	David Wentzell, under John Latham.	8 March, 1817	23 September, 1818	29 April, 1816; No. 391 of Exhibit E.
267	Hardy Rawls	8 March, 1817	19 September, 1817	2 March, 1805; No. 1084 of Exhibit A.
268	Tomas Rawls	8 March, 1817	24 September, 1817	2 March, 1805; No. 1085 of Exhibit A.
269	David Gray	8 March, 1817	10 March, 1817	2 March, 1805; No. 1095 of Exhibit A.
270	Francis Langlois	24 November, 1815	14 March, 1821	29 April, 1816; No. 579 of Exhibit B.
271	Françcois Langlois	24 November, 1815	21 November, 1820	29 April, 1816; No. 580 of Exhibit B.
272	Thomas Wolny	12 March, 1817	25 September, 1821	2 March, 1805; No. 1037 of Exhibit A. 29 April, 1816; No. 193 of Exhibit C.
273	John Tucker, under William Doss.	12 March, 1817	4 September, 1818	29 April, 1816; No. 287 of Exhibit E.
274	George Hucker	14 March, 1817	3 October, 1818	2 March, 1865; No. 1026 of Exhibit A. 29 April, 1816; No. 186 of Exhibit C.
275	John Tucker	17 March, 1817	6 December, 1819	2 March, 1805; No. 821 of Exhibit A. 29 April, 1816; No. 167 of Exhibit C.
276	Stephen Quimby	15 March, 1817	16 October, 1817	29 April, 1816; No. 17 of Exhibit Ee.

REMARKS.

254. Pat'd Aug. 25, 184 . Rec. vol. 10, pp. 301 to 304. Sent to recorder land-titles, Aug. 30, 184 .
255. Pat'd Feb. 16, 1832. Rec. vol. 7, pp. 273 to 275. Sent to H. , Mch. 7, 1832.
256. Pat'd . Rec. vol. 2, p. 314. Sent to Taylor Berry, July 3, 1820.
257. Pat'd Aug. 8, 1820. Rec. vol. 2, p. 333. Sent to R. Wash, Aug. 8, 1820.
259. Pat'd July 3, 1820. Rec. vol. 2. p. 321. Sent to Taylor Berry, July 3, 1820. Pat'd 3d July, 1820. Record vol. 2, 321.
263. Pat'd Aug. 20, 1821. Rec. vol. 2, p. 365. Sent to John D. Poteet, Sept. 25, 1821.
264. Situate in Arkansas.
265. Pat'd May 7, 1822. Rec. vol. 2, p. 404. Sent to Taylor Berry, May 15, 1822.
266. Pat'd Jan'y 3, 1820. Rec. vol. 2, p. 304. Sent to Taylor Berry.
267. Pat'd June 3, 1824. Rec. vol. 4, pp. 316 & 317. Sent to A. H. Evans, June 18, 1824. Certificates Nos. 267 & 382 make up 640 acres.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2670	47 north	2 east	640 acres	November, 1826	3 February, 1848	Testimony, &c., page 39.
2567	48 north	17 west	160 acres	November, 1818	8 January, 1820	Testimony, &c., page 34.
2566	48 north	16 west	160 acres. Area of survey, 151.52 acres.	March, 1820	26 April, 1820	Testimony, &c., page 34.
2579	49 north	11 west	250 arpens	June, 1819	8 January, 1820	Testimony, &c., pages 47 & 59.
2686	44 north	1 east	640 acres	April, 1823	2 June, 1852	Testimony, &c., page 55.
2613	48 north	18 west	240 arpens	January, 1820	23 February, 1820	Testimony, &c., pages 54 & 56.
2668	48 north	12 west	250 arpens	May, 1819	8 January, 1820	Testimony, &c., page 59.
2693	48 north	2 east	640 acres	.....	.....	Testimony, &c., page 37.
2557	49 north	16 west	400 arpens	Not surveyed	.....	Testimony, &c., page 53.
2711	46 north	13 west	160 acres	October, 1818	24 February, 1820	Testimony, &c., pages 27 & 49.
2741	1 north	12 west	160 acres	April, 1820	17 October, 1820	Testimony &c., pages 27 & 49.
2582	51 north	16 & 17 west.	200 arpens	November, 1820	29 November, 1820	Testimony, &c., page 57.
2795	52 north	19 west	300 arpens	July, 1819	23 February, 1820	Testimony, &c., page 57.
2646	49 north	16 west	500 arpens	.....	8 January, 1820	Testimony, &c., page 59.
2652	51 north	18 west	200 arpens	January, 1820	16 May, 1820	Testimony, &c., page 59.
2558	48 north	15 west	225 arpens	April, 1817	23 February, 1820	Testimony, &c., page 59.
2596	44 north	11 west	160 acres	July, 1821	24 February, 1820	Testimony, &c., page 17.
2743	50 north	16 west	160 acres	.....	6 January, 1825	Testimony, &c., page 17.
2800	49 north	14 west	640 acres	October, 1823	December, 1833	Testimony, &c., page 60.
2784	55 north	4 west	200 arpens	.....	16 May, 1820	Testimony, &c., page 60.
2658	46 north	5 west	640 acres	May, 1819	16 May, 1820	Testimony, &c., page 60.
2813	51 north	32 west	550 arpens	May, 1820	17 July, 1822	Testimony, &c., page 60.
2663	44 & 45 north	11 west	640 acres	May, 1819	12 June, 1819	Testimony, &c., page 58.

REMARKS.

268. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 31. Sent to Taylor Berry, Nov. 15, 1822.
269. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 443. Sent to Taylor Berry, Nov. 15, 1822.
270. Pat'd Feb'y 5, 1832. Rec. vol. 7, pp. to 254. Sent to , Feb'y . Certificates Nos. 270, 271, 467, & 470 make up 640 acres.
271. Certificates Nos. 170, 271, 467, & 470 make up 640 acres.
273. Pat'd May 31, 1825. Rec. vol. 5, pp. 54 & 55. Sent to Wm. Milburn, June 3, 1825. Certificates Nos. 273 & 275 make up 750 arpens, or about 640 acres.
274. Pat'd Nov. 22, 1820. Rec. vol. 2, p. 346. Sent to Hon. D. Barton, Nov. 23, 1820.
275. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 433. Sent to Taylor Berry, Nov. 15, 1822. Certificates Nos. 272 & 275 make up 750 arpens, or about 640 acres.
276. Pat'd Jan'y 3, 1825. Rec. vol. 5, pp. 27 to 29.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
277	Absalom Hacker	15 March, 1817	21 January, 1820	29 April, 1816; No. 291 of Exhibit E.
278	Robert Quimby	20 March, 1817	22 October, 1821	2 March, 1805; No. 1108 of Exhibit A. 29 April, 1816; No. 231 of Exhibit C.
279	James Ashworth, under Andrew Godair.	5 September, 1816.		3 March, 1807; No. 1124 of Exhibit A.
280	John Dominique	26 March, 1817	4 August, 1818	29 April, 1816; No. 401 of Exhibit E.
281	Baptiste Fournier	26 March, 1817	27 January, 1818	2 March, 1805; No. 1115 of Exhibit A.
282	Eustache Peltier	31 March, 1817	18 February, 1820	2 March, 1805; No. 564 of Exhibit A.
283	Anthony Gayon	20 March, 1817.	5 February, 1818	29 April, 1816; No. 325 of Exhibit E.
284	Legal representatives of Azor Rees.	30 November, 1815	10 April, 1823	3 March, 1807; No. 275 of Exhibit A.
285	John Hemphill's representatives.	30 November, 1815.	5 April, 1823	3 March, 1807; No. 708 of Exhibit A.
286	Michel Bonneau	4 April, 1817	16 October, 1817	29 April, 1816; No. 313 of Exhibit E.
287	Nathaniel Shaver	23 April, 1817	17 July, 1817	3 March, 1807; No. 588 of Exhibit A.
288	Robert McCoy	25 April, 1817	7 March, 1818	3 March, 1807; No. 1123 of Exhibit A.
289	John Shorter	7 August, 1816.		2 March, 1805; No. 973 of Exhibit A. 29 April, 1816; No. 184 of Exhibit C.
290	John B. Chandillon.	7 August, 1816	19 September, 1822	2 March, 1805; No. 1072 of Exhibit A. 29 April, 1816; No. 214 of Exhibit C.
291	Luc Bellefeuille	9 May, 1817	July, 1818	29 April, 1816; No. 543 of Exhibit B.
292	Luc Bellefeuille	9 May, 1817	7 July, 1818	29 April, 1816; No. 544 of Exhibit B.
293	George Johnston	12 May, 1817	27 August, 1817	29 April, 1816; No. 419 of Exhibit E.
294	Joseph McAlpine	12 May, 1817	15 October, 1817	3 March, 1807; No. 426 of Exhibit A.
295	John Viend	12 November, 1815.	7 July, 1818	29 April, 1816; No. 565 of Exhibit B.
296	John Viend	12 November, 1815	7 September, 1818	29 April, 1816; No. 566 of Exhibit B.
297	Mary P. Leduc	16 November, 1815.	15 May, 1817	3 March, 1807; No. 1088 of Exhibit A.
298	Joseph Leduc	16 November, 1815.	15 May, 1817	3 March, 1807; No. 1090 of Exhibit A.
299	John Roberts	21 May, 1817	20 September, 1820	2 March, 1805; No. 544 of Exhibit A.

REMARKS.

277. Pat'd Feb'y 18, 1839. Rec. vol. 9, pp. 49 to 51. Sent to Hon. F. W. Miller, Feb'y 19, 1839.
278. Pat'd Dec. 6, 1822. Rec. vol. 4, p. 3. Sent to Wm. Milburn, Dec. 19, 1822.
279. Pat. 22, Feb'y 1825. Record, vol. 5, p. 33. Sent to R. Bates, Feb'y 23, 1825.
280. Pat'd Mch. 26, 1824. Rec. vol. 4, pp. 307 to 309. Sent to Taylor Berry, May 12, 1824.
281. Pat'd June 21, 1820. Rec. vol. 2, p. 273. Sent to Taylor Berry.
283. Pat'd June 21, 1824. Rec. vol. 4, pp. 439 440. Sent to Wm. Russell, July 23, 1824.
284. Pat'd Aug. 7, 1858. Rec. vol. 11, pp. 346 to 349. Sent to recorder land-titles, Aug. 7, 1858.
285. Pat'd June 14, 1859. Rec. vol. 11, pp. 397 to 400. Sent to recorder land-titles, July 14, 1859.
286. Pat. 3 July, 1820. Record, vol. 2, p. 293. Sent to Taylor Berry, July 3, 1820.
287. To regr. & recr. Springfield, Mo., Sept. 1, 1867, in division 6 Pope & Prury div. (See act of Congress of 2 July, 1836, entitled "An act for the relief of the legal representatives of Nathaniel Shaver, deceased." See also No. 16 of Exhibit L.)

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2688	51 north.....	28 west	200 arpens. Area of survey, 153.97 acres.	June, 1836.....	1 July, 1837.....	Testimony, &c., page 60.
2920	48 north.....	1 east ..	640 acres..	.....	15 November, 1821.	Testimony, &c., page 60.
2774	57 north.....	5 west..	200 arpens.	July, 1819	16 May, 1820	Testimony, &c., page 51.
2689	46 north.....	6 east ..	640 acres..	December, 1821..	9 May, 1823.....	Testimony, &c., page 41.
2653	51 north.....	17 west	160 acres..	.....	23 February, 1820..	
2728	44 north.....	10 west	160 acres..	October, 1841....	26 March, 1842.....	Testimony, &c., page 61.
2698	49 north.....	14 west.	200 arpens.	May, 1819	8 January, 1820 ..	Testimony, &c., page 61.
2938	22 north.....	14 east.	160 acres. Area of survey, 112.95 acres.	April, 1857	29 June, 1857	Testimony, &c., page 29.
2937	23 north.	14 east.	160 acres..	October, 1836....	9 October, 1837	Testimony, &c., pages 30 & 50.
2661	49 north.....	16 west	640 acres..	July, 1819.....	23 February, 1820..	Testimony, &c., page 38.
2618	45 & 46 north.	6 east ..	400 arpens. Area of survey, 189.85 acres.	May, 1829	28 November, 1832	Testimony, &c., page 62.
2699	47 north	7 east ..	160 acres..	November, 1817..	3 June, 1823.....	Testimony, &c., page 57.
2622	44 north.....	11 west	640 acres..	June, 1818	24 February, 1820..	Testimony, &c., page 36.
2669	46 & 47 north and 46 north	1 east, 2 east.	640 acres..	January, 1854....	24 November, 1854.	Testimony, &c., page 35.
2764	48 north.....	15 west.	160 acres..	.....	24 February, 1820..	Testimony, &c., page 49.
2748	48 north.....	17 west	160 acres..	.....	24 February, 1820..	Testimony, &c., page 49.
2635	44 north.....	11 west.	640 acres..	May, 1819	8 January, 1820....	Testimony, &c., page 45.
2660	47 north.....	5 east ..	400 arpens.	March, 1818.....	June, 1822.....	Testimony, &c., page 44.
2750	48 north.....	16 west.	160 acres..	.....	24 February, 1820..	Testimony, &c., page 3.
2751	59 north.....	6 west..	160 acres..	.....	16 May, 1820	Testimony, &c., page 3.
2585	49 north.....	16 west	160 acres..	August, 1818.....	8 January, 1820....	Testimony, &c., page 9.
2584	49 north.....	16 west	160 acres..	August, 1818.....	8 January, 1820....	Testimony, &c., page 9.
2639	44 north.....	10 west.	400 arpens	March, 1859.....	4 April, 1859.....	Testimony, &c., page 62.

REMARKS.

288. Pat'd Apl. 30, 1829. Rec. vol. 7, pp. 98 & 99. Sent to C. S. Hempstead, May 6, 1829.
289. Pat'd Oct. 12, 1830. Rec. vol. 7, pp. 218 to .
290. Pat'd Apl. 19, 1856. Rec. vol. 11, pp. 299 to 304. Sent to recorder land-titles, Apl. 28, 1856.
291. Pat'd Nov. 6, 1827. Rec. vol. 6, p. 13. Sent to R. D. Dawson, Nov. 8, 1827.
292. Pat'd Nov. 6, 1827. Rec. vol. 6, pp. 9 & 10. Sent to R. D. Dawson, Nov. 8, 1827.
293. Pat'd Apl. 20, 1830. Rec. vol. 7, pp. 192 to 194. Sent to John W.
294. Pat'd Dec. 6, 1822. Rec. v. 4, p. 1. Sent to Hon. D. Barton, Dec. 24, '22. Sent to J. H. Herron, June 19, 1872.
295. Patd Nov. 6, 1827. Rec. vol. 6, pp. 11 & 12. Sent to R. D. Dawson Nov. 8, 1827.
296. Pat'd Feb'y 16, 1833. Rec. vol. 7, pp. 261 & 292. Sent to recorder land titles, Feb'y 20, 1833.
297. Pat'd Jan'y 30, 1828. Rec. vol. 7, pp. 41 to 43. Sent to Hon. D. Barton, Feb'y 4, 1828.
298. Pat'd Jan'y 30, 1828. Rec. vol. 7, pp. 37 to 39. Sent to Hon. D. Barton, Feb'y 4, 1828.
299. Pat'd Mch. 2, 1864. Rec. vol. 11, pp. 489 to 492. Sent to recorder land-titles, Mch. 2, 1864.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
300	Amos Cox.....	21 May, 1817	28 August, 1817.....	29 April, 1816; No. 281 of Exhibit E.
301	Daniel Bankson, ass'e of James Bankson.	28 November. 1815.	25 November, 1818.....	2 March, 1805; No. 1105 of Exhibit A.
302	William Frazer....	26 May, 1817	26 May, 1817	2 March, 1805; No. 540 of Exhibit A.
303	Thomas Brooks....	26 May, 1817	9 June, 1817.....	3 March, 1807; No. 590 of Exhibit A.
304	Hibernois	26 May, 1817	27 May, 1817	29 April, 1816; No. 556 of Exhibit B.
305	Hibernois	26 May, 1817	27 May, 1817	29 April, 1816; No. 557 of Exhibit B.
306	William Hacker...	26 May, 1817	12 February, 1820.....	2 March, 1805; No. 1211 of Exhibit A. 29 April, 1816; No. 176 of Exhibit C.
307	Elizabeth McCardle.	26 May, 1817	10 November, 1817.....	3 March, 1807; No. 562 of Exhibit A.
308	Jesse Masters.....	2 May, 1817	28 August, 1817.....	2 March, 1805; No. 531 of Exhibit A.
309	William Masters...	2 June, 1817.....	28 August, 1817.....	2 March, 1805; No. 530 of Exhibit A.
310	Jeremiah Conoway.	4 June, 1817.....	28 December, 1818.....	2 March, 1805; No. 1024 of Exhibit A.
311	Charles Gail.....	16 June, 1817.....	9 July, 1817.....	29 April, 1816; No. 339 of Exhibit E.
312	Edward Stoker....	7 August. 1816	10 March, 1818	2 March, 1805; No. 1086 of Exhibit A. 29 April, 1816; No. 224 of Exhibit C.
313	Peter Sansquertier.	19 June, 1817	8 September, 1817.....	3 March, 1807; No. 597 of Exhibit A.
314	John Wiley.....	28 November, 1815.	23 April, 1818.....	29 April, 1816; No. 314 of Exhibit E.
315	Peter Sabourin....	24 June, 1817	7 August, 1818.....	3 March, 1807; No. 606 of Exhibit A.
316	David Trotter.....	24 June, 1817	7 July, 1818	29 April, 1816; No. 355 of Exhibit E.
317	Thomas Welborn..	30 June, 1817	1817	2 March, 1805; No. 1059 of Exhibit A. 29 April, 1816; No. 204 of Exhibit C.
318	Stephen Byrd, under Jesse Bowden.	3 July, 1817	15 October, 1822.....	29 April, 1816; No. 248 of Exhibit E.
319	Baptiste Lafleur...	30 November, 1815.	7 July, 1817.....	2 March, 1805; No. 1097 of Exhibit A. 29 April, 1816; No. 226 of Exhibit C.
320	Francis Coutelony.	6 July, 1817.....	9 July, 1817.....	29 April, 1816; No. 398 of Exhibit E.
321	Joseph Laplante...	7 July, 1817.....	13 August, 1817.....	29 April, 1816; No. 298 of Exhibit E.
322	William Zanes, under Peter O'Neal.	8 July, 1817.....	3 December, 1819	29 April, 1816; No. 379 of Exhibit E.

REMARKS.

300. Pat'd Mch. 1, 1821. Rec. vol. 2, p. 356. Sent to Hon. Thos. H. Benton, Mch. 1, 1821,
301. Pat'd July, 22, 1848. Rec. vol. 10, pp. 262 to 264. Sent to recorder land-titles, Aug. 22, 1848.
302. Pat'd June 21, 1824. Rec. vol. 4, pp. 441 & 442. Sent to Robt. Wallace, July 7, 1824.
303. Pat. 3 July, 1820. Record vol. 2, p. 320. Sent to Taylor Berry, July 3, 1820.
304. See to Richd. F. Barret, July 27, 1872. } Pat'd Feb'y 16, 1832. Rec. vol, 7, pp. 270 to 276. Sent to
305. } John Roberts, Mch. 7, 1832.
306. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 3. Sent to Taylor Berry, Nov. 15, 1822.
307. Pat'd Oct. 1, 1842. Rec. vol. 10, pp. 121 & 122. Sent to R. Kouns, Oct. 3, 1842.
308. Pat't July 30, 1823. Rec. vol. 4, pp. 189 & 190. Sent to P. M. Dillon, Aug. 8, 1823.
309. Pat'd July 3, 1823. Rec. vol. 4, pp. 190 to 192. Sent to P. M. Dillon, Aug. 8, 1823.
310. Pat'd Jan'y 30, 1828. Rec. vol. 6, pp. 39 to 41. Sent to Hon. E. Bates, Feb'y 4, 1828.
311. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 8. Sent to C. S. Hempstead, Nov. 21, 1822.
312. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 6. Sent to Taylor Berry, Nov. 15, 1822.
313. Pat'd Jan'y 31, 1825. Rec. vol. 5, pp. 25 to 27. Sent (illegible.)

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2638	44 north	11 west	640 acres..	May, 1819.....	8 January, 1820....	Testimony, &c., page 47.
2809	51 north	19 west	300 arpens	July, 1819.....	22 December, 1847.	Testimony, &c., pages 23 & 27.
2590	48 north	16 west	200 arpens	December, 1817..	8 January, 1820....	Testimony, &c., page 62.
2600	48 north	18 west	200 arpens	June, 1817	4 June, 1819.....	Testimony, &c., page 59.
2591	48 north	16west	160 acres 149.86 acres.	May, 1819.....	8 January, 1820.	
607	49 north	15 west	460 acres..	April, 1820	26 April, 1820.....	Testimony, &c., page 60.
2673	46 north	8 west	253 arpens	May, 1819	16 May, 1820	Testimony, &c., page 60.
2637	45 north	9 west	350 arpens	September, 1818.	7 May, 1819	Testimony, &c., page 62.
2636	44 north	10 west	250 arpens	June, 1818	7 May, 1819	Testimony, &c., page 59.
2849	57 north	5 west	200 arpens	July, 1819	26 June, 1820.....	Testimony, &c., page 62.
2615	45 north	2 west	640 acres..	March, 1820.....	16 May, 1820	Testimony, &c., page 39.
2714	51 north	17 west	640 acres..	.....	24 February, 1820..	Testimony, &c., page 36.
2642	48 north	16 west	200 arpens	January, 1820...	16 May, 1820.	
2723	52 north	16 & 17 west	640 acres..	June, 1819.....	23 February, 1820..	Testimony, &c., page 25.
2768	54 north	1 west	300 arpens	November, 1819..	1 January, 1820....	Testimony, &c., page 63.
2744	49 north	14 west	200 arpens	May, 1819	8 January, 1820....	Testimony, &c., page 63.
2680	44 north	11 west	640 acres..	February, 1820..	10 October, 1825....	Testimony, &c., page 61.
2850	55 north	3 west	428 arpens	January, 1823....	7 November, 1823..	Testimony, &c., page 63.
2614	45 north	6 & 7 east	640 acres..	April, 1818.....	14 April, 1825.....	Testimony, &c., page 46.
2616	44 north	10 west	640 acres..	September, 1817	16 May, 1820	Testimony, &c., page 40.
2659	48 north	7 & 8 east	320 acres..	October, 1852....	8 December, 1855..	Testimony, &c , page 46.

REMARKS.

314. Pat'd July 3, 1820. Rec. vol. 2, p. 319. Sent to Taylor Berry, July 3, 1820.
315. Pat'd May 7, 1822. Rec. vol. 2, p. 400. Sent to Taylor Berry, May 15, 1822.
316. Pat'd Nov. 13, 1822. Rec. vol. 2, p. 436. Sent to Taylor Berry, Nov. 15, 1822.
317. Pat'd July 12, 1845. Rec. vol. 10, pp. 38 to 40. Sent to A. Hamilton, July 14, 1845.
318. Pat'd Dec. 17, 1824. Rec. vol. 5, pp. 19 & 20. Sent to Hon. Jared Williams, Dec. 17, 1824.
319. Pat'd June 13, 1827. Rec. vol. 5, pp. 417 & 418. Sent to J. B. C. Lucas, June 14, 1827.
320. Pat'd Mch. 26, 1824. Rec. vol. 4, pp. 273 & 274. Sent to Hon. D. Barton, May 12, 1824.
321. Certificate No. 321 has been erroneously issued, therefore the original claim holds good. (See letter from the Commissioner of the General Land-Office, dated 24 May, 1848.)
322. Certificates Nos. 322 and 330 make up 640 acres. (See No. 330 of this exhibit.)

NOTE.—In a book entitled "New Madrid location certificates issued," in the recorder's office, there is, opposite certificate No. 322, the following remark: "Cert. for 320 acres; the other half su-pended on ex'n of the claim & caveat of Hunt & Lucas for ½ of W. Z's orig. S. R.;" and opposite certificate No. 330, the following remark: "Cert. for 320 acres, w'ch, together with cert. No. 322, completes his limits."

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificates.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
323	John Daney	15 July, 1817	8 September, 1818	29 April, 1816; No. 437 of Exhibit E.
324	Joseph Bacleau	24 November, 1815	12 May, 1818	29 April, 1816; No. 335 of Exhibit E.
325	Alexis Peter, alias Picard.	20 November, 1815	28 November, 1817	29 April, 1816; No. 415 of Exhibit E.
326	Francis Derousse	26 July, 1817	19 September, 1817	3 March, 1807; No. 648 of Exhibit A.
327	Andrew Woods	28 November, 1815	4 February, 1823	29 April, 1816; No. 426 of Exhibit E.
328	Robert Caldwell	8 September, 1817	8 September, 1817	3 March, 1807; No. 436 of Exhibit A.
329	William Connoway	13 September, 1817	31 October, 1817	2 March, 1805; No. 1025 of Exhibit A.
330	William Zanes	19 September, 1817	25 April, 1823	25 April, 1816; No. 377 of Exhibit E.
331	Peter Dumay	23 September, 1817	23 September, 1817	3 March, 1807; No. 687 of Exhibit A.
332	Isidore Skerritt	Not dated, 23 September, 1817	23 September, 1817	3 March, 1807; No. 693 of Exhibit A.
333	John B. Thibault	26 September, 1817	17 August, 1835	29 April, 1816; No. 366 of Exhibit E.
334	Joseph Smith	6 August, 1816	28 August, 1819	29 April, 1816; No. 342 of Exhibit D.
335	Joseph Vandenbenden.	9 October, 1817	27 December, 1817	29 April, 1816; No. 385 of Exhibit E.
336	John Lovel, under John Summers.	13 October, 1817	20 March, 1818	2 March, 1805; No. 563 of Exhibit A.
337	Whelman Bankson	28 November, 1815	20 October, 1817	29 April, 1816; No. 424 of Exhibit E.
338	Benjamin Patterson, senr.	16 October, 1817	.....	29 April, 1816; No. 423 of Exhibit E.
339	Charles Grilbault	13 October, 1817	30 August, 1822	29 April, 1816; No. 309 of Exhibit E.
340	Charles Chartres	27 October, 1822	21 April, 1823	2 March, 1805; No. 1065 of Exhibit A. 29 April, 1816; No. 210 of Exhibit C.
341	Jacob Millikin	31 October, 1817	7 January, 1822	29 April, 1816; No. 276 of Exhibit E.
342	James Douglass	31 October, 1817	27 January, 1818	29 April, 1816; No. 280 of Exhibit E.
343	Joseph Serejo	29 October, 1817	22 July, 1818	29 April, 1816; No. 311 of Exhibit E.
344	Lewis Worth	3 November, 1817	19 March, 1819	2 March, 1805; No. 1125 of Exhibit A. 29 April, 1816; No. 173 of Exhibit C.
345	Peter Saffray	17 November, 1817	6 December, 1819	29 April, 1816; No. 402 of Exhibit E.

REMARKS.

323. Pat'd Mch. 10, 1821. Rec. vol. 2, p. 357. Sent C. S. Hempstead, March 14, 1821.
324. Pat'd May 7, 1822. Rec. vol. 2, p. 395. Sent to May 7, 1822. Pat'd 7 May, 1822. Record, vol. 2, p. 395.
325. Pat'd July 3, 1822. Rec. vol. 2, p. 272. Sent to Joseph Smith, July 3, 1822.
326. Pat'd Mch. 20, 1822. Rec. vol. 4, pp. 297 & 300. Sent A. H. Evans, June , 1822.
327. Pat'd Aug. 31, 1825. Rec. vol. 5, pp. 86 & 87. Situate in Arkansas.
328. Pat'd June 28, 1834. Rec. vol. , pp. . Sent to Robt. Walker, July 7, 1834.
329. Pat'd Oct. 5, 1872. Rec. vol. 13, pp. 467 & 468. Sent to recorder land-titles, Oct. 5, 1872. *See* to W. W. Gibbs, same date. *See* to Wm. H. Trigg & Co., Nov. 30, 1872.
330. Certificates Nos. 322 & 330 make up 640 acres. See note under No. 322 of this exhibit. This claim surveyed under confirmation of 29 April, 1816. (See No. 377 of Exhibit E.)
331. Pat'd July 19, 1822. Dec. vol. 2, p. 416. Sent to Elias Rector, July 24, 1822.
332. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 25. Sent to N. Wach, Nov. 21, 1822.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution ot the survey.	Return to the recorder.	
2788	51 & 52 north	18 west	640 acres ..	.....	24 February, 1820..	Testimony, &c., page 42.
2628	48 north.....	17 west.	640 acres ..	April, 1820	16 May, 1820	Testimony, &c., page 15.
2685	51 & 52 north	18 west.	640 acres ..	December, 1819..	26 April, 1820.....	Testimony, &c., page 11.
2645	50 north.....	16 west.	250 arpens.	July, 1819	3 September, 1823..	Testimony, &c., page 64.
2772	18 south.....	25 & 26 west.	640 acres ..	June, 1824.....	25 January, 1825...	Testimony, &c., page 26.
2641	48 north.....	16 west.	200 arpens	December, 1818..	8 January, 1820....	Testimony, &c., page 64.
2672	48 north.....	16 west.	250 arpens	May, 1819.....	8 January, 1820....	Testimony, &c., page 65.
2676	45 north	7 east ..	320 acres ..	Not surveyed....	.....	Testimony, &c., page 25.
2649	51 north.....	17 west.	240 arpens.	May, 1819	2 March, 1820.....	Testimony, &c., page 65.
2648	48 north.....	16 west.	240 arpens.	May, 1819	8 January, 1820....	Testimony, &c., page 65.
2656	45 north.....	7 east ..	480 acres...	Not surveyed....	.....	Testimony, &c., page 39.
2702	51 north.....	17 west.	200 arpens.	Not surveyed....	.....	Testimony, &c., page 34.
2695	48 north.....	17 west.	102 arpens	December, 1818..	8 January, 1820....	Testimony, &c., page 16.
2717	49 north.....	17 west.	160 acres ..	.....	24 February, 1820..	Testimony, &c., page 65.
2666	44 north.....	11 west.	640 acres ..	May 1819.....	8 January, 1820....	Testimony, &c., page 23.
.....	.....	.....	640 acres ..	.....	.....	Testimony, &c., page 46.
2667	52 north.....	2 east ..	160 acres ..	.....	.....	Testimony, &c., page 54.
2675	45 north	5 east ..	640 acres ..	April, 1823	4 January, 1824....	Testimony, &c., page 36.
2701	44 north.....	11 west.	640 acres ..	August, 1842	22 August, 1842....	Testimony, &c., page 66.
2707	51 north.....	17 west.	640 acres ..	.....	23 February, 1820 .	Testimony, &c., page 46.
2758	51 north.....	17 west.	640 acres ..	.....	24 February, 1820..	Testimony, &c., page 37.
2898	57 north.....	5 west..	300 arpens	July, 1819.....	16 May, 1820	Testimony, &c., page 65.
2684	46 north.....	6 east ..	640 acres ..	January, 1820 ...	11 December, 1854	Testimony, &c., page 41.

REMARKS

333. Certificates Nos. 223 & 333 make up 640 acres. Certificate No. 333, located under act of 28 January, 1833, entitled "An act for the relief of Archibald Gamble," vol. 6, p. 52.
334. Pat'd June 21, 1820. Rec. vol. 2, p. 270. Sent to Taylor Berry.
335. Pat'd Nov. 31, 1822. Rec. vol. 3, p. 39. Sent to Taylor Berry, Nov. 27, 1822. Certificates Nos. 157, 226, & 335 make up 640 acres.
336. Pat'd Mch. 24, 1827. Rec. vol. 5, pp. 314 and 315. Sent to Matthew Kerr, Mch. 27, 1827.
337. Pat'd May 2, 1824. Rec. vol. 4, pp. 297 & 298. Sent Mordecai Marks, May 25, 1824.
338. See act of Congress of 14 May, 1834, entitled "An act for the relief of Coleman Fisher. See also No. 9 of Exhibit L.
340. Pat'd Dec. 1, 1824. Rec. vol. 5, pp. 8 & 9. Sent to Wm. Leduc, Dec. 4, 1824.
341. Pat'd Jan'y 21, 1843. Rec. vol. 9, pp. 221 to 225. Sent to John , Jan'y 24, 1843.
342. Pat'd June 7, 1820. Rec. vol 2, p. 264. Sent to Taylor Berry.
343. Pat'd Nov. 16, 1825. Rec. vol. 5, pp. 182 & 183. Sent to John Reed, Nov. 16. 1825.
344. Pat'd June 26, 1826. Rec. vol. 5, pp. 268 & 269.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
346	Edmund Hogan, or the legal representatives of Alexander Millikin.	17 November, 1817.	27 January, 1818.....	29 April, 1816; No. 333 of Exhibit D.
347	Baptiste Delisle...	20 November, 1817.	2 June, 1821.....	2 March, 1805; No. 586 of Exhibit A.
348	James Conway....	20 November, 1817.	16 June, 1818.....	29 April, 1816; No. 289 of Exhibit E.
349	Richard Westbrook	22 November, 1817	1 May, 1818.....	3 March, 1807; No. 255 of Exhibit A.
350	John F. Chatigny..	2 December, 1817..	6 December, 1820.....	29 April, 1816; No. 397 of Exhibit E.
351	Mons Vanses.....	18 December, 1817.	3 December, 1822.....	29 April, 1816; No. 359 of Exhibit E.
352	George N. Ragin...	18 December, 1817.	28 January, 1819.....	3 March, 1807; No. 1131 of Exhibit A.
353	John Wellborn....	20 December, 1817.	10 January, 1818.....	2 March, 1805; No. 1021 of Exhibit A. 29 April, 1816; No. 172 of Exhibit C.
354	John Henthorn....	9 January, 1818....	3 November, 1818.....	29 April, 1816; No. 374 of Exhibit E.
355	Peter Lovel, under George Roebuck.	15 January, 1818...	1 August, 1818.....	3 March, 1807; No. 709 of Exhibit A.
356	James Smith.....	15 January, 1818...	25 March, 1819.....	3 March, 1807; Nos. 543 & 1031 of Exhibit A.
357	Auguste Delarabondiere.	16 January, 1818...	10 April, 1823.....	29 April, 1816; No. 364 of Exhibit E.
358	George Ruddell....	20 January, 1818...	4 April, 1823.....	2 March, 1805; No. 536 of Exhibit A.
359	Nicholas Savage...	22 January, 1818...	15 April, 1818.....	2 March, 1805; No. 1062 of Exhibit A. 29 April, 1816; No. 207 of Exhibit C.
360	Antoine Pena.....	30 January, 1818...	16 March, 1818.....	29 April, 1816; No. 360 of Exhibit D.
361	Charles Bonneau, junr.	1 February, 1818..	6 July, 1818.....	29 April, 1816; No. 323 of Exhibit E.
362	John B. Chartier...	1 February, 1818..	.....	29 April, 1816; No. 487 of Exhibit B.
363	Samson Archer....	10 March, 1818.....	26 April, 1818.....	3 March, 1807; No. 705 of Exhibit A.
364	David Johnson....	10 March, 1818.....	21 April, 1823.....	3 March, 1807; No. 364 of Exhibit A.
365	Arthur Mellon.....	10 March, 1818.....	14 April, 1818.....	2 March, 1805; No. 566 of Exhibit A.
366	Joseph Michel, under John Brown.	10 March, 1818.....	17 April, 1818.....	3 March, 1807; No. 1182 of Exhibit A.
367	Arthur Mellon, under Jacob Myers.	10 March, 1818.....	22 July, 1818.....	3 March, 1807; No. 258 of Exhibit A.
368	Robert Masters ...	11 March, 1818.....	16 June, 1818.....	29 April, 1816; No. 512 of Exhibit B.

REMARKS.

346. Pat'd July 3, 1820. Rec. vol. 2, p. 298. Sent to Taylor Berry, July 3, 1820.
347. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 7. Sent to P. S. Hempstead, Nov. 21, 1822. See decision of the U. S. Supreme Court, Lessieur vs. Price Curtis, vol. 19, page 31.
353. Situate in the St. Charles common.
354. Pat'd July 24, 1829. Rec. vol. 7, pp. 142 to 144.
355. Pat'd Oct. 10, 1825. Rec. vol. 5 pp. 115 to 117. Sent to T. A. Smith, Oct. 12, 1825.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2708	44 north....	10 west.	240 arpens.	August, 1818....	11 March, 1820....	Testimony, &c., page 66.
2681	44 north....	11 west.	200 arpens	August, 1821....	11 February, 1822..	Testimony, &c., page 66.
2712	45 north....	7 east..	200 arpens	June, 1819	9 May, 1823.....	Testimony, &c., page 63.
2726	45 north....	7 east..	350 arpens.	November, 1832..	22 August, 1833....	Testimony, &c., page 66.
2687	44 north....	1 east..	640 acres..	April, 1823.....	2 June, 1852.....	Testimony, &c., page 40.
2879	29 north....	14 east	640 acres..	June, 1829.....	24 February, 1820..	Testimony, &c., page 62.
2876	48 north....	16 west	640 acres..	May, 1819	8 January, 1820....	Testimony, &c., page 62.
2700	47 north....	5 east..	640 acres..	January, 1819 ..	.....	Testimony, &c., page 61.
2818	45 north....	9 west..	640 acres..	January, 1820 ..	16 May, 1820.....	Testimony, &c., page 58.
2709	49 north....	16 west.	240 arpens	February, 1820..	16 May, 1820.....	Testimony, &c., page 67.
2705	47 north....	5 east..	300 arpens	Not surveyed....	.....	Testimony, &c., page 67.
2704	23 north....	14 east	640 acres..	September, 1826.	29 November, 1856	Testimony, &c., page 67.
2934	21 north....	14 east	320 acres; area of survey, 238.70 acres.	August, 1847....	31 January, 1848...	Testimony, &c., page 36.
2718	48 & 49 north.	15 west	300 arpens.	May, 1819	8 January, 1820....	Testimony, &c., page 61.
2715	52 north....	16 west	320 arpens	June, 1819	23 February, 1820..	Testimony, &c., page 50.
2742	51 north....	18 west	640 acres..	January, 1820 ..	16 May, 1820.....	Testimony, &c., page 38.
2752	48 north....	16 west	107,33 acres.	Not surveyed.		
2724	51 north....	17 west	400 arpens.	June, 1819.....	23 February, 1820..	Testimony, &c., page 67.
2846	49 north....	16 west.	200 arpens; area of survey, 160 acres.	....	30 December, 1823	Testimony, &c., page 67.
2721	51 north....	18 west	160 acres..	.....	1 January, 1820....	Testimony, &c., page 67.
2719	48 north....	17 west.	160 acres..	April, 1820.....	16 May, 1820.....	Testimony, &c., page 68.
2759	46 north....	6 east..	160 acres..	August, 1818....	.....	Testimony, &c., page 68.
2731	45 north....	7 east..	160 acres..	Not surveyed.	.....	Testimony, &c., page 12.

REMARKS.

356. Located within the St. Charles common.
358. Certificates Nos. 80, 81, & 358 make up 640 acres.
362. Certificates Nos. 104, 105, 253, & 362 make up 640 acres.
363. Pat. 28 Dec., 1826. Record vol. 5, p. 287.
364. The location calls only for the N. E. $\frac{1}{4}$ of section 11.
368. Located within the St. Louis common.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
369	Authony Bonneau	17 March, 1818.....	13 May, 1818	29 April, 1816; No. 322 of Exhibit E.
370	Peter Dumry.....	17 March, 1818	.....	29 April, 1816; No. 324 of Exhibit E.
371	James Norris.....	18 March, 1818	20 April, 1818	29 April, 1816; No. 247 of Exhibit E.
372	St. Germain.....	9 April, 1818.....	28 September, 1818....	29 April, 1816; No. 517 of Exhibit B.
373	Jacob Bogard.....	8 May, 1818.....	3 March, 1820.....	29 April, 1816; No. 380 of Exhibit E.
374	Charles Guibeault .	8 May, 1818.....	14 August, 1818.....	29 April, 1816; No. 563 of Exhibit B.
375	Charles Guibeault..	8 May, 1818.....	25 April, 1823	29 April, 1816; No. 564 of Exhibit B.
376	Jean Montmonie...	9 June, 1818.....	8 September, 1818....	29 April, 1816; No. 573 of Exhibit B.
377	Jean Montmonie..	9 June, 1818.....	18 July, 1818.....	29 April, 1816; No. 574 of Exhibit B.
378	Sarah Ruddell, widow of Nicholas Augur.	10 June, 1818.....	17 June, 1818.....	3 March, 1807; No. 690 of Exhibit A.
379	Abraham Bird, senr.	19 June, 1818.....	27 June, 1818.....	29 April, 1816; No. 223 of Exhibit E.
380	Thomas W. Caulk	6 July, 1818	6 July, 1818.....	3 March, 1807; No. 104 of Exhibit A.
381	Thomas Powers...	10 July, 1818	29 September, 1818....	2 March, 1805; No. 1137 of Exhibit A.
382	Hardy Renols, under Adison Rogers.	13 July, 1818.....	13 July, 1818.....	3 March, 1807; No. 618 of Exhibit A.
383	Edward Matthews, junr.	13 July, 1818.....	21 September, 1818....	29 April, 1816; No. 436 of Exhibit E.
384	Samuel Dorsey, under Samuel Adams.	16 July, 1818.....	25 April, 1823	29 April, 1816; No. 434 of Exhibit E.
385	Charles Guilbault..	16 July, 1818.....	19 July, 1818.....	29 April, 1816; No. 310 of Exhibit E.
386	Francis Couteley..	16 July, 1818.....	6 April, 1819	3 March, 1807; No. 604 of Exhibit A.
387	Joshua Sexton.....	16 July, 1818	8 August, 1818	2 March, 1805; No. 972 of Exhibit A.
388	Louis Baby.....	22 July, 1818.....	9 March, 1819	2 March, 1805; No. 593 of Exhibit A.
389	Toussaint Godair, junr.	27 July, 1818.....	28 August, 1818.	29 April, 1816; No. 393 of Exhibit E.
390	James Williams...	28 July, 1818.....	3 December, 1818...	3 March, 1807; No. 1016 of Exhibit A.
391	James Williams....	28 July, 1818	28 July, 1818.....	3 March, 1807; No. 1017 of Exhibit A.

REMARKS.

369. Pat'd Oct. 25, 1831. Rec. . Sent to Hon. Henry Clay, Oct. 31, 1831.
370. Pat'd . Rec. . Sent to recorder land-titles.
371. Pat'd July 31, 1828. Rec. vol. 7, pp. to 10. Sent to J. Coleman, Sept. 19, 1828. (Illegible) 351 arpens confirmed by act of 29 April, 1816.
372. Pat'd Dec. 29, 1823. Rec. . Sent to Hon. Jas. H. Relfe.
373.
374.
375.
376. Pat'd . Rec. . Sent to recorder land-titles, Aug. 30, 1848. Certificate No. 82, 376, 377, & 426 make up 640 acres.
377. Pat'd Feb'y 18, 1835. Rec. pp. 47 to 51. Sent to Hon. W. H. Ashley, Feb'y 21, 1835. Certificate Nos. 82, 376, 377, & 426 make up 640 acres.
378. Located within the St. Louis common.
379. Pat'd Dec. 11, 1824. Rec. vol. 5, pp. 16 to 18. Sent to Hon. John Scott, Dec. 11, 1824. *See* to Hon. J. G. Blair, Feb'y 16, 1872; *see* to Thomas H. Bacon, July, 26, 1872.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2979	46 & 47 north	6 east ..	640 acres; area of survey=572.91 acres.	April, 1836	12 January, 1837 ..	Testimony, &c., page 38.
2740	49 north.....	11 west.	300 arpens.	March, 1819	8 January, 1820 ...	Testimony, &c., page 68.
2720	48 north.....	18 west.	300 arpens.	January, 1820 ...	16 May, 1820.....	Testimony, &c., page 68.
2801	44 north.....	9 west.	160 acres ..	February, 1820..	.....	
2851	31 north.....	15 east.	400 arpens.	April, 1822	22 January, 1824..	Testimony, &c., page 69.
2773	54 north.....	2 west..	160 acres ..	.....	.....	Testimony, &c., page 69.
2755	49 north.....	17 west.	160 acres ..	December, 1823..	30 December, 1823.	Testimony, &c., page 69.
2789	51 north.....	17 west.	160 acres ..	May, 1818.....	2 February, 1848..	Testimony, &c., page 71.
2756	51 north.....	18 west.	160 acres ..	January, 1820 ...	16 May, 1820.....	Testimony, &c., page 71.
2733	44 & 45 north	7 east..	240 arpens.	Not surveyed....	.....	Testimony, &c., page 71.
2739	57 north.....	4 west..	640 acres ..	August, 1819	16 May, 1820.....	Testimony, &c., page 70.
2747	48 north.....	16 & 17 west.	400 arpens	January, 1820...	16 May, 1820.....	Testimony, &c., page 71.
2802	49 north.....	14 west.	200 arpens	May, 1819.....	8 January, 1820 ...	Testimony, &c., page 72.
2754	48 north.....	16 west.	214.65acres*	May, 1819.....	8 January, 1820...	Testimony, &c., page 64.
2766	51 north.....	17 west.	200 arpens	May, 1819.....	16 June, 1821.....	Testimony, &c., page 64.
2848	27 & 28 north	15 east..	640 acres ..	May, 1829.....	10 May, 1830.....	Testimony, &c., page 61.
2757	49 north.....	14 west.	160 acres ..	May, 1819.....	8 January, 1820...	Testimony, &c., page 37.
2779	58 north.....	6 west..	246 arpens.	August, 1819	16 May, 1820.....	Testimony, &c., page 70.
2769	49 north.....	14 west	200 arpens.	October, 1818....	8 January, 1820 ...	Testimony, &c., page 73.
2896	57 north.....	5 west..	250 arpens.	July, 1819.....	16 May, 1820.....	Testimony, &c., page 73.
2782	52 north.....	18 west	640 acres ..	.....	24 February, 1820.	Testimony, &c., page 40.
2824	46 north.....	6 east..	160 acres ..	November, 1842 .	14 October, 1843...	
2761	49 north.....	14 west.	160 acres ..	.....	24 February, 1820.	

REMARKS.

380. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 19. Sent to N. Wash, Nov. 21, 1822.
381. Pat'd June 24, 1848. Rec. vol. 10, pp. 254 to 256. Sent to recorder land-titles, June 30, 1848.
382. Pat'd Feb'y 1, 1832. Rec. vol. 7, pp. 272 & 273. Sent to Morley & Westbrook, Mch. 7, 1832. Certificates Nos. 267 & 382 make up 640 acres.
383. Pat'd June 14, 1822. Rec. vol. 2, p. 414. Sent to Pope, June 14, 1822.
384. Pat'd M'ch 25, 1842. Rec. vol. pp. 163 to 167. Sent to Wm. Russell, Apl. 2, 1842.
386. Pat'd July 5, 1826. Rec. vol. 5, pp. 275 & 276. Sent to register, Palmyra, Mo., July 5, 1826.
387. Pat'd July 3, 1820. Rec. vol. 2, p. 310. Sent to Taylor Berry, July 3, 1820.
388. Pat'd M'ch 1, 1823. Rec. vol. 4, pp. 112 & 113. Sent to C. S. Hempstead, Apl. 4, 1823.
389. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 63 & 64. Sent to Taylor Berry, Feb'y 22, 1823.
390. Pat'd July 9, 1844. Rec. vol. 9, pp. 362 to 365. Sent to Hon. Jas. H. Relfe, July 9, 1844.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
392	James Currin.....	28 July, 1818.....	9 October, 1818	2 March, 1805; No. 1029 of Exhibit A. 29 April, 1816; No. 187 of Exhibit C.
393	Alexander Samson	6 August, 1818.....	28 January, 1818.....	29 April, 1816; No. 347 of Exhibit E.
394	Nicholas Janis.....	10 August, 1818....	12 August, 1818.....	29 April, 1816; No. 341 of Exhibit E.
395	Anthony Janis	10 August, 1818....	17 August, 1819.....	29 April, 1816; No. 340 of Exhibit E.
396	Francis Janis.....	10 August, 1818....	.....	29 April, 1816; No. 342 of Exhibit E.
397	Francis Trenchard.	12 August, 1818....	25 April, 1823.....	2 March, 1805; No. 574 of Exhibit A.
398	Louis Baby	12 August, 1818....	28 March, 1820.....	29 April, 1816; No. 348 of Exhibit E.
399	Andrew Robertson, junr.	12 August, 1818....	21 August, 1819.....	2 March, 1805; No. 1013 of Exhibit A. 29 April, 1816; No. 185 of Exhibit C.
400	Conrad Carpenter's representatives.	16 August, 1818....	22 August, 1818.....	29 April, 1816; No. 430 of Exhibit E.
401	Joseph Lewis.....	16 August, 1818....	18 August, 1818.....	2 March, 1805; No. 529 of Exhibit A.
402	Philip Shackler....	18 August, 1818....	19 February, 1821.....	29 April, 1816; No. 297 of Exhibit E.
403	Andrew Godair....	18 August, 1818...	28 January, 1819.....	29 April, 1816; No. 338 of Exhibit E.
404	Alexis Picard.....	18 August, 1818....	22 September, 1818... .	29 April, 1816; No. 399 of Exhibit E.
405	Joseph Dumay	18 August, 1818....	20 November, 1818.....	2 March, 1805; No. 1074 of Exhibit A. 29 April, 1816; No. 216 of Exhibit C.
406	Francis Millette....	18 August, 1818....	25 April, 1823.....	29 April, 1816; No. 358 of Exhibit E.
407	Hyacinthe Berthcaume.	18 August, 1818....	6 December, 1822.....	2 March, 1805; No. 1112 of Exhibit A. 29 April, 1816; No. 232 of Exhibit C.
408	Ignace Chatigny...	18 August, 1818....	28 January, 1819.....	29 April, 1816; No. 396 of Exhibit E.
409	Francis Foisey	18 August, 1819....	28 January, 1819.....	2 March, 1805; No. 1052 of Exhibit A. 29 April, 1816; No. 198 of Exhibit C.
410	Dennis Lavertue...	18 August, 1818...	8 September, 1818.....	2 March, 1805; No. 1059 of Exhibit A. 29 April, 1816; No. 199 of Exhibit C.
411	Peter Grimard.....	7 August, 1816.....	October, 1818.....	2 March, 1805; No. 1056 of Exhibit A. 29 April, 1816; No. 202 of Exhibit C.
412	William Dapron...	7 August, 1816.....	20 November, 1818.....	2 March, 1805; No. 1058 of Exhibit A. 29 April, 1816; No. 203 of Exhibit C.
413	Eustache Delisle ..	18 August, 1818....	26 November, 1818.....	29 April, 1816; No. 328 of Exhibit E.
414	Henry Godair.....	7 August, 1816.....	20 November, 1818.....	2 March, 1805; No. 1055 of Exhibit A. 29 April, 1816; No. 201 of Exhibit C.

REMARKS.

392. Pat'd Mch. 26, 1824. Rec. vol. 4, pp. 312 to 314. Sent to Taylor Berry, May 12, 1824.
393. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 66 & 67. Sent to Taylor Berry, Feb'y 22, 1823.
394. Pat'd Jan'y 8, 1845. Rec. vol. 10, pp. 13 to 19. Sent to recorder land-titles, Jan'y 15, 1845.
395. Pat'd Dec. 21, 1829. Rec. vol. 7, pp. 169 & 170.
396. Pat'd June 21, 1820. Rec. vol. 2, p. 27. Sent to Taylor Berry, June 21, 1820.
397. Pat'd M'ch 24, 1827. Rec. vol. 5, pp. 311 & 312. Sent to H. N. Conway, May 27, 1827. Situate in Arkansas.
399. Pat'd Mch. 22, 1823. Rec. vol. 4, pp. 125 & 126. Sent to Wm. Milburn, Mch. 27, 1823.
400. Pat'd June 21, 1820. Rec. vol. 2, p. 270. Sent to Taylor Berry.
401. Pat'd May 14, 1822. Rec. vol. 2, p. 417.
402. Pat'd June 6, 1836. Rec. vol. 1, pp. 135 to 13 . Sent to Hon. Wm. H. Ashley, June 6, 1836. (See No. 28 of Exhibit M.)
403. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 51 to 53. Sent to Taylor Berry, Feb'y 22, 1823. Certificates Nos. 106 & 403 make up 640.

rid Claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2767	61 north.....	5 & 6 west.	640 acres..	January, 1821....	14 June, 1822	Testimony, &c., page 73.
2869	48 north.....	16 west.	300 arpens	May, 1819	8 January, 1820....	Testimony, &c., pages 70 & 76.
2771	47 north.....	7 east ..	640 acres..	March, 1833.....	20 May, 1844.....	Testimony, &c., 69 & 77.
2780	51 north.....	30 west	640 acres..	.....	24 February, 1820..	Testimony, &c., pages 69 & 77.
2791	50 north.....	16 west.	640 acres..	.....	23 February, 1820..	Testimony, &c., page 77.
2841	19 south.....	25 west.	300 arpens	June, 1824.....	25 January, 1825...	Testimony, &c., page 73.
2887	51 north.....	30 west	300 arpens	Not surveyed....	.....	Testimony, &c., page 77.
2775	46 north.....	6 east ..	640 acres..	September, 1819..	12 December, 1822	Testimony, &c., page 78.
2783	52 north....	19 west.	640 acres..	.....	1 January, 1820....	Testimony, &c., page 16.
2776	52 north.....	17 west.	350 arpens	July, 1819.....	17 December, 1821.	Testimony, &c., page 78.
2918	33 north.....	11 east..	640 acres..	July 1829.....	30 August, 1831	Testimony, &c., page 78.
2870	48 north.....	15 west.	480 acres..	May, 1819	8 January, 1820....	Testimony, &c., pages 39 & 47.
2798	51 north.....	26 west.	640 acres..	June, 1819.....	February, 1836 ..	Testimony, &c., page 41.
2822	50 north.....	16 west.	480 acres..	July, 1819	4 May, 1820.....	Testimony, &c., page 35.
2902	52 north.....	16 west	640 acres..	June, 1819.....	4 October, 1823	Testimony, &c., page 39.
2877	29 north.....	14 east..	640 acres..	.....	.....	Testimony, &c., page 35.
2871	48 north.....	15 west.	640 acres..	May, 1819.....	8 January, 1820....	Testimony, &c., page 40.
2874	48 north.....	15 west.	640 acres..	May, 1819.....	8 January, 1820....	Testimony, &c., page 36.
2787	52 north.....	19 west	640 acres..	July, 1819	16 May, 1820.....	Testimony, &c., page 36.
2812	53 north.....	1 west..	640 acres..	.....	4 May, 1820.....	Testimony, &c., page 36.
2820	50 north.....	16 west	640 acres..	July, 1819	4 May, 1820.....	Testimony, &c., page 35.
2823	53 north.....	20 west	640 acres..	July, 1819	11 March, 1820.....	Testimony, &c., page 38.
2821	49 & 50 north	15 west	640 acres..	July, 1819	4 May, 1820.....	Testimony, &c., page 36.

REMARKS.

404. Pat'd Mch. 18, 1831. Rec. vol. 11, pp. 99 to 101. Sent to recorder land-titles, Mch. 20, 1831.
405. Pat'd May 15, 1824. Rec. vol. 4, pp. 347 to 349. Certificates Nos. 181 & 405 make up 640 acres.
406. Pat'd May 27, 1824. Rec. vol. 4, pp. 368 & 369. Sent to Hon. John Scott, May 29, 1824.
407. Pat'd Feb'y . Rec. vol. 4, pp. 51 & 52. Sent to Taylor Berry, Feb'y.
408. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 57 & 58. Sent to Taylor Berry.
409. Pat'd Feb'y 22, 1823. Rec. vol. 4, pp. 59 & 60. Sent to Taylor Berry, Feb'y 22, 1823.
410. Pat'd M'ch 1, 1823. Rec. vol. 4, pp. 33 & 34. Sent to Hon. D. Barton, , 1823.
411. Pat'd Aug. 8, 1826. Rec. vol. 2, p. 331. Sent to R. Wash, Aug.
412. Pat'd May 15, 1824. Rec. vol. 4, pp. 340 to 342.
413. Pat'd July 3, 1820. Rec. vol. 2, p. 305. Sent to Taylor Berry, July 3, 1820.
414. Pat'd Aug. 5, 1820. Rec. vol. 2, p. 334. Sent to R. Wash, Aug. 28, 1820.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
415	Peter Latour	7 August, 1816	.....	29 April, 1816; No. 304 of Exhibit E.
416	Francis Maixnoille.	7 August, 1816	24 February, 1819.....	29 April, 1816; No. 303 of Exhibit E.
417	Ignace Hunot.....	18 August, 1818....	24 February, 1823.....	29 April, 1816; No. 306 of Exhibit E.
418	Ignace Belan.....	18 August, 1818....	17 November, 1818.....	29 April, 1816; No. 330 of Exhibit E.
419	Joseph Legrand ...	18 August, 1818....	28 January, 1819.....	29 April, 1816; No. 327 of Exhibit E.
420	Charles Bonneau ..	18 August, 1818....	28 January, 1819.....	3 March, 1807; No. 692 of Exhibit A.
421	Louis Denoyon....	18 August, 1818....	October, 1818.....	2 March, 1805; No. 1049 of Exhibit A.
422	Louis St. Aubin, junr.	18 August, 1818....	.....	2 March, 1805; No. 1050 of Exhibit A.
423	Peter Perron	18 August, 1818....	.....	2 March, 1805; No. 1070 of Exhibit A.
424	John Lamb, under James McMillan.	18 August, 1818....	5 April, 1823.....	29 April, 1816; No. 390 of Exhibit E.
425	Baptiste Grimard..	18 August, 1818....	7 September, 1818.....	2 March, 1805; No. 592 of Exhibit A.
426	Jean Montmonie...	18 August, 1818....	10 April, 1819.....	29 April, 1816; No. 513 of Exhibit B.
427	Gabriel Hunot, junr.	21 August, 1818....	2 January, 1822.....	29 April, 1816; No. 470 of Exhibit B.
428	Joseph Labuissieur	21 August, 1818....	23 April, 1823.....	29 April, 1816; No. 305 of Exhibit E.
429	John Roberts, junr.	21 August, 1818....	20 September, 1818.....	29 April, 1816; Exhibit E, No. 372.
430	Joseph Story, under John Horner.	25 August, 1818....	26 August, 1818.....	3 March, 1807; No. 718 of Exhibit A.
431	Francis B. Covosier, under Isaac Thompson.	28 August, 1818....	.....	3 March, 1807; No. 683 of Exhibit A.
432	Francis B. Covosier, under Isaac Thompson.	28 August, 1818....	28 January, 1819.....	29 April, 1816; No. 348 of Exhibit D.
433	Francis B. Covosier, under John E. Hart	28 August, 1818....	28 October, 1820	3 March, 1807; No. 682 of Exhibit A.
434	Louis Coignard....	28 August, 1818....	.....	29 April, 1816; No. 482 of Exhibit B.
435	Louis Coignard, legatee of Claude Jos. Gonet.	18 August, 1818....	7 December, 1822.....	2 March, 1805: No. 595 of Exhibit A.
436	Francis Racine	2 September, 1818.	7 December, 1822	3 March, 1807; No. 1241 of Exhibit A.
437	Thomas Johnson...	2 September, 1818.	25 October, 1819	29 April, 1816; No. 498 of Exhibit B

REMARKS.

415. To Edward C. Smith & U. S. recorder of land-titles, St. Louis, Mo., Apl. 24, 1872. Certificate No. 415 not located.

416. Located at the north end of Long Prairie, on the left bank of main Red River, but location "withdrawn in consequence of the land not being authorized for sale."

417. Pat'd June 21, 1824. Rec. vol. 4, pp. 409 to 411. Sent to Wm. Russell, June 21, 1824. Situate in Arkansas.

418. Pat'd May 7, 1822. Rec. vol. 2, p. 405. Sent to Taylor Berry, May 15, 1822.

419. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 61 & 62. Sent to Taylor Berry, Feb'y 5, 1823.

420. Pat'd . Rec. vol. , p. 13. Sent to Taylor Berry, Feb'y 12, 1823.

421. Pat'd Aug. , 1820. Rec. vol. , p. Sent to R. Wash, Aug. , 1820.

422. Pat'd Aug. 8, 1820. Rec. vol. 2, p. 535. Sent to R. Wash, Aug. , 1820.

423. Pat'd Aug. 8, 1820. Rec. v. 2, p. 336. Sent to R. Wash, Aug. 28, 1820; to Hon. E. Wells, Mch. 7, 1871. See special act of 1st July, 1836, v. 6, p. 660.)

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorders's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
.....	.....	.....	640 acres ..	.....	.....	Testimony, &c., page 37.
.....	.....	.....	640 acres ..	.....	.....	Testimony, &c., page 37.
2929	5 north.....	16 west.	640 acres ..	August, 1823.....	22 January, 1824...	Testimony, &c.. page 37.
2819	51 north.....	26 west.	640 acres ..	June, 1819.....	23 February, 1820..	Testimony, &c., page 38.
2873	48 north.....	14 & 15 west.	640 acres ..	May, 1819.....	8 January, 1820....	Testimony, &c., page 75.
2872	48 north.....	14 west	160 acres ..	.....	24 February, 1820..	Testimony, &c., page 74.
2811	52 north.....	19 west.	200 arpens.	July, 1819.....	4 May, 1820.....	Testimony, &c., page 74.
2814	46 north.....	5 west..	200 arpens.	May, 1819.....	4 May, 1820.....	Testimony, &c., page 74.
2815	46 north.....	5 west..	200 arpens.	.....	4 May, 1820.....	Testimony, &c., page 75.
2947	23 north.....	14 east..	200 arpens.	Not surveyed....	.....	Testimony, &c., page 77.
2786	57 north.....	4 west..	200 arpens.	March, 1819.....	16 May, 1820	Testimony, &c., page 72.
2816	58 north.....	6 west..	107.33 acres	August, 1819.....	16 May, 1820	Testimony, &., page 75.
2778	44 north.....	10 west.	160 acres ..	May, 1844.....	17 October, 1844	Testimony, &c., page 17.
2863	45 north.....	9 west..	640 acres ..	August, 1821	7 September, 1821..	Testimony, &c., page 37.
2797	49 north.....	15 west.	640 acres ..	.....	1 January, 1820....	Testimony, &c., page 45.
2781	49 north.....	15 & 16 west.	139.72 acres	May, 1819	8 January, 1820....	Testimony, &c., pages 49 & 79.
.....	.....	.....	240 arpens.	.....	.....	Testimony, &c., page 74.
2878	48 north.....	16 west	198 arpens.	May, 1819	8 January, 1820....	Testimony, &c., page 74.
2916	51 north.....	32 west	240 arpens.	February, 1821 ..	30 July, 1823	Testimony, &c., page 74.
.....	.....	.....	160 acres ..	.....	.....	Testimony, &c., page 71.
2925	48 north.....	16 west.	200 arpens; area of survey = 160 acres.	.....	21 March, 1846.....	Testimony, &c., page 74.
2926	48 north....	16 west.	160 acres ..	.....	18 February, 1825..	Testimony, &c., page 76.
2855	49 north.	18 west.	160 acres ..	.....	24 February, 1820..	Testimony, &c., page 76.

REMARKS.

425. Pat'd July 20, 1842. Rec. vol. 9, pp. 194 to 196. Sent to A. McDonald, July 25, 1842. This location has been withdrawn & certificate relocated in T. 44 N., R. 11 W., on the 22 January, 1822, but the claim has been surveyed and patented according to the first location.
426. Certificates Nos. 82, 376, 377, & 426 make up 640 acres.
428. Pat'd May . Rec. vol. , p. . Sent to Hon. W. W. Gibb, May , 1822.
429. Pat'd June 17, 1820. Rec. vol. 2, p. 263. Sent to Taylor Berry.
430. Certificates Nos. 180, 248, 249, & 430 make up 640 acres.
431. Not located. Certificate not filed in surveyor-general's office.
432. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. . Sent to Taylor Berry, Feb'y 22, 1823.
434. Not located. Certificate not filed in surveyor-general's office. Certificates Nos. 434, 435, & 501 make up 640 acres.
435. Certificates Nos. 434, 435, & 501 make up 640 acres.
437. Pat'd Mch. 26, 1824. Rec. vol. 4, pp. 292 & 293. Sent to H. W. Conway, May 12, 1824.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
438	Michel Bontronc...	2 September, 1818..	29 September, 1818.....	29 April, 1816; No. 504 of Exhibit B.
439	Elisha Jackson....	2 September, 1818..	14 April, 1823.....	3 March, 1807; No. 724 of Exhibit A.
440	Hugh McD. Chisholm.	2 September, 1818..	29 January, 1822.....	29 April, 1816; No. 278 of Exhibit E.
441	John B. Racine....	2 September, 1818..	28 January, 1819.....	3 March, 1807; No. 630 of Exhibit A.
442	John B. St. Mary..	2 September, 1818..	14 April, 1822.....	3 March, 1807; No. 688 of Exhibit A.
443	Toussaint Godair..	2 September, 1818..	7 December, 1822.....	2 March, 1805; No. 560 of Exhibit A.
444	Toussaint Godair..	2 September, 1818..	28 August, 1821.....	29 April, 1816; No. 489 of Exhibit B.
445	Ambrose Dumay..	2 September, 1818..	21 November, 1820.....	3 March, 1807; No. 607 of Exhibit A.
446	Joseph Dejerlais, Femme Lacourse.	15 September, 1818.	15 September, 1818.....	2 March, 1805; No. 553 of Exhibit A.
447	John Robertson....	18 September, 1818.	5 October, 1818.....	29 April, 1816; No. 435 of Exhibit E.
448	John Robertson, junr.	September, 1818.	8 October, 1818.....	2 March, 1805; No. 1126 of Exhibit A. 29 April, 1816; No. 233 of Exhibit C.
449	Lemuel Masters....	September, 1818	6 February, 1819.....	29 April, 1816; No. 511 of Exhibit B.
450	John Frazer.....	21 September, 1818.	21 September, 1818.....	3 March, 1807; No. 680 of Exhibit A. 29 April, 1816; No. 179 of Exhibit C.
451	Peter Newkirk....	6 January, 1818....	25 September, 1818.....	29 April, 1816; No. 353 of Exhibit E.
452	Alexander Frazer..	25 September, 1818	4 October, 1818.....	2 March, 1805; No. 1119 of Exhibit A.
453	William Cox.....	6 October, 1818....	6 October, 1818.....	29 April, 1816; No. 295 of Exhibit E.
454	Andrew Scott.....	6 October, 1818....	6 October, 1818.....	3 March, 1807; No. 624 of Exhibit A.
455	Martin Tash.....	28 November, 1815.	19 October, 1818.....	29 April, 1816; No. 284 of Exhibit E.
456	Thomas Thompson.	26 October, 1818...	28 July 1820.....	29 April, 1816; No. 414 of Exhibit E.
457	Christopher Winsor.	31 October, 1818...	22 December, 1818.....	29 April, 1816; No. 354 of Exhibit E.
458	Robert Lane.....	2 November, 1818..	22 December, 1819.....	2 March, 1805; No. 1019 of Exhibit A. 29 April, 1816; No. 171 of Exhibit C.
459	Collett Carron.....	12 November, 1815.	29 March, 1819.....	2 March, 1805; No. 1118 of Exhibit A.
460	John Derlan.....	2 November, 1818..	18 March, 1819.....	2 March, 1805; No. 1117 of Exhibit A.

REMARKS.

438. Pat. dated Apl. 10, 1872. Rec. vol. 1, p. 373.
440. Pat'd Feb'y 13, 1824. Rec. vol. 7, pp. 80 to 82.
441. Pat'd Feb'y 5, 1823. Rec. vol. 4, pp. 64 & 65. Sent to Taylor Berry, Feb'y 22, 1823.
443. Pat'd Mch. 27, 1845. Rec. vol. 10, pp. 23 & 24. Sent to B. S. Wilson, Mch. 29, 1845. Location calls only for the N. E. ¼ of section 7.
444. Pat'd July 20, 1849. Rec. vol. 10, pp. 363 to 367. Sent to recorder land-titles, July 21, 1849.
445. Pat'd June 5, 1823. Rec. vol. 4, pp. 135 & 136. Sent to Taylor Berry, June 12, 1823.
446. Pat'd Mch. 24, 1827. Rec. vol. 5, pp. 317 to 319. Sent to Hon. D. Barton, Mch. 27, 1827.
447. Pat'd Feb'y 1, 1828. Rec. vol. 6, pp. 52 to 54. Sent to Hon. E. Bates, Feb'y 4, 1828.
448. Pat'd June 17, 1820. Rec. vol. 2, p. 259. Sent to Joseph Watson. See decision of the U. S. Supreme Court, January term, 1839. (Curtis, vol. 13, page 235.)

rid Claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2799	45 north.....	6 east..	160 acres..	October, 1855....	29 November, 1856.	Testimony, &c., page 76.
2944	51 & 52 north.	17 west.	240 arpens.	September, 1833.	29 January, 1824...	Testimony, &c., page 76.
2854	55 north.....	5 west..	160 acres..	November, 1823..	3 November, 1828..	Testimony, &c., page 76.
2875	48 north.....	15 west.	289 arpens.	May, 1819.....	8 January, 1820....	Testimony, &c., page 49.
2945	52 north.....	17 west.	240 arpens.	February, 1839..	2 December, 1839..	Testimony, &c., page 75.
2927	48 north.....	16 west.	200 arpens; area of survey, 160 acres.	.....	6 April, 1844.....	Testimony, &c., page 75.
2919	30 north.....	13 east..	160 acres..	December, 1847..	.....	Testimony, &c., page 74.
2917	50 north.....	16 west.	240 arpens.	October, 1822....	.....	Testimony, &c., page 74.
2793	46 & 47north.	13 west.	200 arpens.	October, 1818....	24 February, 1820..	Testimony, &c., page' 17 & 21.
2804	57 north.....	5 west..	330 arpens.	July, 1819.....	16 May, 1820.....	Testimony, &c., page 78.
2810	50 north.....	15 west.	640 acres..	.....	24 February, 1820.	Testimony, &c,, page 76.
2891	49 north.....	16 west.	160 acres..	.....	24 February, 1820.	Testimony, &c., page 22.
2794	48 north.....	16 west.	310 arpens.	January, 1819...	8 January, 1820....	Testimony, &c., page 79.
2796	45 north.....	9 west..	640 acres..	January, 1820...	16 May, 1820.....	Testimony, &c., page 25.
2808	49 north.....	14 west	160 acres..	May, 1819.....	8 January, 1820....	Testimony, &c., page 72.
2805	48 north.....	16 west.	640 acres..	.....	24 February, 1820.	Testimony, &c., page 48.
2806	48 north....	16 west.	300 arpens.	January, 1819...	8 January, 1820....	Testimony, &c., page 79.
2817	49 north.....	13 west.	200 arpens.	May, 1819.....	8 January, 1820....	Testimony, &c., pages 26 & 34.
2868	51 north.....	31 west.	640 acres..	March, 1849.....	30 April, 1849.....	Testimony, &c., page 45.
2838	48 north.....	16 west.	640 acres..	.....	24 February, 1820..	Testimony, &c., page 29.
2904	51 north.....	28 west.	640 acres..	November, 1819..	14 December, 1819.	Testimony, &c., page 60.
2899	58 north.....	6 west..	160 acres..	.....	16 May, 1820.....	Testimony, &c., page 5.
2897	45 north.....	5 west..	160 acres..	February, 1821..	28 January, 1828...	Testimony, &c., page 2.

REMARKS.

449. Pat'd June 17, 1820. Rec. vol. 2, p. 60. Sent to Joseph Watson.
450. Pat'd June 20, 1824. Rec. vol. 4, pp. 456 & 457. Sent to R. Wallace, July 7, 1824.
451. Pat'd Apl. 30, 1829. Rec. vol. 7, pp. 99 to 101. Sent to Wm. Millburn, May 6, 1829.
452. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 34. Sent to Taylor Berry, Nov. 15, 1822.
453. Pat'd Mch. 6, 1855. Rec. vol. 11, pp. 285 to 288. Sent to recorder land-titles, Mch. 7, 1855.
455. Pat'd May 7, 1822. Rec. vol. 2, p. 402. Sent to Taylor Berry, May 15, 1822.
456. Pat'd Mch. 15, 1851. Rec. vol. 11, pp. 94 to 98. Sent to recorder land-titles, Mch. 20, 1851.
457. Pat'd June 26, 1826. Rec. vol. 5, pp. 274 & 275.
458. Pat'd Sept. 22, 1823. Rec. vol. 4, pp. 206 to 208. Sent to Gen'l D. Green, Sept. 22, 1823. Pat'd May 7, 1822. Rev. 2, p. 396. Sent to Hon. N. Edwards, May 21, '22. Canceled,
460. Pat'd Apl. 11, 1828. Rec. vol. 6, pp. 114 & 115.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
461	Phœbe Dunn.....	12 November, 1818.	22 March, 1823.....	29 April, 1816; No. 20 of Exhibit E.
462	John Block.....	20 November, 1818.	9 December, 1818.....	29 April, 1816; No. 387 of Exhibit E.
463	John E. Hart.....	20 November, 1818.	8 December, 1818.....	2 March, 1805; No. 594 of Exhibit A.
464	Alexander Auguste Follin.	20 November, 1818.	.....	2 March, 1805; No. 333 of Exhibit A.
465	Bartholemy Tardiveau.	26 November, 1818.	1 March, 1820.....	29 April, 1816; No. 347 of Exhibit D.
466	Joseph St. Mary, or his legal representatives.	26 November, 1818.	11 January, 1823	3 March, 1807; No. 707 of Exhibit A.
467	Francis Langlois senr.	26 November, 1818.	27 January, 1819.....	2 March, 1805; No. 1076 of Exhibit A.
468	P. St. Mary.....	26 November, 1818.	25 April, 1823	29 April, 1816; No. 506 of Exhibit B.
469	Nicholas St. Jean..	26 November, 1818	22 January, 1819	29 April, 1816; No. 480 of Exhibit B.
470	Francis Langlois...	26 November, 1818.	8 April, 1819.....	29 April, 1816; No. 473 of Exhibit B.
471	Nicholas Dapron...	26 November, 1818.	4 April, 1823.....	29 April, 1816; No. 501 of Exhibit B.
472	Francis St. Mary..	26 November, 1818.	25 April, 1823.....	29 April, 1816; No. 505 of Exhibit B.
473	James Gilbreath, under Joshua Vicery	26 November, 1818	25 January, 1819.....	2 March, 1805; No. 1028 of Exhibit A.
474	Francis Pasquin...	30 November, 1818.	1 February, 1819.....	March, 1807; No. 1302 of Exhibit A.
475	Charles Logsion...	30 November, 1818.	22 April, 1823.....	29 April, 1816; No. 320 of Exhibit E.
476	Andrew Wilson....	30 November, 1818.	1 February, 1819.....	29 April, 1816; No. 469 of Exhibit B.
477	Edward Proctor...	30 November, 1818.	4 February, 1823.....	29 April, 1816; No. 466 of Exhibit E.
478	Alexander McFarlane.	30 November, 1818.	14 April, 1823.....	29 April, 1816; No. 19 of Exhibit E.
479	James Alcozor, under Philip Ducomb...	2 December, 1818..	17 December, 1819	3 March, 1807; No. 1242 of Exhibit A.
480	George Unerous...	2 December, 1818..	25 April, 1823.....	3 March, 1807; No. 272 of Exhibit A.
481	George Unerous...	2 December, 1818..	25 February, 1823.....	3 March, 1807; No. 713 of Exhibit A.
482	Philip Lady.....	6 December, 1818..	9 December, 1819.....	2 March, 1805; No. 1130 of Exhibit A.
483	Samuel Dorsey....	6 December, 1818..	23 February, 1819.....	3 March, 1807; No. 274 of Exhibit A.

REMARKS.

461. Situate in Arkansas.
462. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 10. Sent to N. Wash, Nov. 21, 1822.
463. Pat'd Mch. 22 1823. Rec. vol. 4, pp. 123 & 124. Sent to Wm. Milburn, Mch. 27, 1823.
464. Pat'd July 3, 1820. Rec. vol. 2, p. 315. Sent to Taylor Berry, July 3, 1820.
465. Pat'd Sept. 20, 1854. Rec. vol. 11, pp. 268 to 272. Sent to recorder land-titles, Sept. 20, 1854.
467. Located in Arkansas to cover hot springs. Certificates Nos. 270, 271, 467, & 470 make up 640 acres.
468. Pat'd Aug. 31, 1825. Rec. vol. 5, p. 85. Situate in Arkansas.
469. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 27. Sent to John D. Poteet, Nov. 27, 1822.
470. Pat'd Apl. 20, 1848. Rec. vol. 10, pp. 196 & 197. Sent to W. W. Gitt, Apl. Certificates Nos. 270, 271, 467, & 470 make up 640 acres.
471. Situate in Arkansas.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2930	2 north	5 east	640 acres			Testimony, &c., page 61.
2833	51 north	25 west	640 acres	June, 1819	16 July, 1822	Testimony, &c., page 60.
2827	51 north	25 west	240 arpens	June, 1819	12 December, 1822	Testimony, &c., page 24.
2845	49 north	17 west	240 arpens	August, 1819	11 March, 1820	Testimony, &c., page 80.
2889	45 north	6 east	240 arpens	May, 1820	11 September, 1854	Testimony, &c., page 84.
2922	21 north	14 east	240 arpens	May, 1829	29 November, 1856	Testimony, &c., page 84.
2903			200 arpens			Testimony, &c., page 75.
2942	19 south	26 west	160 acres		25 September, 1823	
2857	49 north	16 west	160 acres	May, 1817	7 September, 1819	
2900	59 north	6 west	150 acres	December, 1819	16 May, 1820	Testimony, &c., page 14.
2691	21 north	14 east	160 acres	May, 1829	29 November, 1856	
2935	19 north	25 west	160 acres		25 September, 1823	
2859	53 north	1 west	arpens	November, 1819	16 May, 1820	Testimony, &c., page 80.
2882	48 north	18 west	160 acres			Testimony, &c., page 84.
2940	28 north	14 east	200 arpens	March, 1856	1 June, 1857	Testimony, &c., pages 47 & 49.
2883	48 north	18 west	160 acres	January, 1820	16 May, 1820	Testimony, &c., page 14.
2905	19 south	25 & 26 west	640 acres			Testimony, &c., page 88.
2911	27 north	17 & 18 east	640 acres	May, 1829	11 May, 1830	Testimony, &c., page 88.
2908			160 acres			
2910	49 north	17 west	160 acres	December, 1823	30 December, 1823	Testimony, &c., page 76.
2909	49 north	15 west	240 arpens	March, 1823	6 January, 1825	Testimony, &c., page 89.
2831	51 north	23 west	200 arpens	June, 1819	29 November, 1856	Testimony, &c., page 83.
2894	52 north	18 west	184 arpens	July, 1819	16 July, 1822	Testimony, &c., page 81.

REMARKS.

472. Pat'd Dec. 1, 1824. Rec. vol. 5, p. 1. Sent to A. H. Evans, Dec. 11. Situate in Arkansas.
473. Pat'd Mch. 26 1824. Rec. vol. 4, pp. 288 & 289. Sent to Taylor Berry, May 12, 1824.
474. Pat'd June 21, 1820. Rec. vol. 2, p. 285. Sent to Taylor Berry.
475. Patented June 17, 1857. Rec. vol. 11, pp. 322-'3. Sent to rec. land-titles, June 17, '57. (See letter to Hon. Jas. R. McCormick, Feb'y 28, 1870.)
477. Pat'd Mch. 12, 1838. Rec. vol. 8, pp. 230 to 232, to R. Beebe, Apl. 26, 1838. Situate in Arkansas.
479. Located in Arkansas.
483. *See* to recorder, May 1, 1872.

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificate.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
484	Samuel Masters....	6 December, 1818..	8 December, 1818.....	2 March, 1805; No. 953 of Exhibit A.
485	Joseph Lesieur....	6 December, 1818..	17 December, 1818.....	3 March, 1807; No. 694 of Exhibit A.
486	Peter Deroche.....	6 December, 1818..	9 January, 1819.....	3 March, 1807; No. 1129 of Exhibit A.
487	John Culbertson, under Hypolite Tirard.	6 December, 1818..	25 January, 1819.....	2 March, 1805; No. 610 of Exhibit A.
488	John Culbertson...	6 December, 1818..	8 December, 1818.....	2 March, 1805; No. 613 of Exhibit A.
489	Joseph McCourtney.	6 December, 1818..	9 December, 1818.....	3 March, 1807; No. 651 of Exhibit A.
490	Andrew Drybread.	6 December, 1818..	25 January, 1819.....	3 March, 1807; No. 1285 of Exhibit A.
491	James Dunkin.....	6 December, 1818..	17 December, 1818.....	29 April, 1816; No. 371 of Exhibit E.
492	Isaac Thomson....	6 December, 1818..	8 December, 1818.....	29 April, 1816; No. 425 of Exhibit E.
493	William Duncan...	6 December, 1818..	17 December, 1818.....	2 March, 1805; No. 430 of Exhibit A.
494	Jesse Demint.....	6 December, 1818..	8 December, 1818.....	29 April, 1816; No. 429 of Exhibit E.
495	William McKiu ...	6 December, 1818..	25 January, 1819.....	2 March, 1805; No. 1184 of Exhibit A.
496	Samuel Jones.....	6 December, 1818..	9 December, 1818.....	29 April, 1816; No. 431 of Exhibit E.
497	Jacob Myers	8 December, 1818..	3 August, 1826	29 April, 1816; No. 464 of Exhibit B.
498	Jacob Myers	8 December, 1818..	17 April, 1820	29 April, 1816; No. 493 of Exhibit B.
499	Jacob Myers, under Francis Hudson.	8 December, 1818..	17 April, 1823	29 April, 1816; No. 465 of Exhibit B.
500	Antoine Gamelin, or his legal representatives.	16 December, 1818.	25 February, 1819.....	3 March, 1807; No. 257 of Exhibit A.
501	Louis Coignard....	16 December, 1818.	23 February, 1819.....	29 April, 1816; No. 408 of Exhibit E.
502	Steward Cummings	10 August, 1818	2 March, 1821	2 March, 1805; No. 576 of Exhibit A.
503	Joseph Gravier....	21 December, 1818	25 April, 1823.....	29 April, 1816; No. 394 of Exhibit E.
504	John Loyed.....	21 December, 1818	29 May, 1819.....	2 March, 1805; No. 971 of Exhibit A. 29 April, 1816; No. 183 of Exhibit C.
505	Charles Hogan	23 December, 1818.	28 January, 1819	2 March, 1805; No. 1210 of Exhibit A. 20 April, 1816; No. 175 of Exhibit C.
506	John B. Barseloux.	24 December, 1818.	22 January, 1819	29 April, 1816; No. 521 of Exhibit B.

REMARKS.

484. Pat'd Nov. 6, 1827. Rec. v. 6, p. 15. Sent to R. D. Dawson, Nov. 8, 1827. *See* to recorder, May 1, 1872.
485. Pat'd Nov. 13, 1822. Rec. v. 3, p. 22. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.
486. Pat'd Nov. 6, 1827. Rec. vol. 6, pp. 8 & 9. Sent to R. D. Dawson, Nov. 8, 1827.
487. Pat'd Dec. 31, 1828. Rec. vol. 7, pp. 73 & 74. Sent to
488. Pat'd Nov. 13, 1822. Rec. v. 3, p. 1. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.
489. Pat'd Nov. 13, 1822. Rec. v. 3, p. 23, 21. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May, 1872.
490. Pat'd Nov. 13, 1822. Rec. vol. 3, p. 11. Sent to N. Wash, Nov. 21, 1822.
491. Pat'd Nov. 13, 1822. Rec. v. 3, p. 15. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.
492. Pat'd Nov. 13, 1822. Rec. v. 3, p. 26. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
Survey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2822	52 north.....	20 west.	300 arpens.	July, 1819.....	16 July, 1822.....	Testimony, &c., pages 44 & 81.
2836	48 north.....	15 west.	240 arpens.	May, 1819.....	8 January, 1820...	Testimony, &c., page 81.
2860	49 north.....	18 west.	160 acres..	.....	24 February, 1820.	Testimony, &c., page 81.
2862	43 north.....	14 west.	200 arpens	May, 1819.....	8 January, 1821...	Testimony, &c., page 81.
2826	51 north.....	25 west.	300 arpens.	June, 1819.....	16 July, 1822.....	Testimony, &c., page 82.
2830	51 & 52 north.	23 west.	240 arpens.	June, 1819.....	16 July, 1822.....	Testimony, &c., page 82.
2861	49 north.....	18 west.	160 acres..	.....	24 February, 1820.	Testimony, &c., page 82.
2835	49 north.....	14 west.	640 acres..	.....	24 February, 1820.	Testimony, &c., page 82.
2825	51 north.....	28 west.	640 acres..	June, 1819.....	16 July, 1822.....	Testimony, &c., page 82.
2837	48 north.....	15 west.	400 arpens.	May, 1819.....	8 January, 1820....	Testimony, &c., page 44.
2829	51 north.....	23 west.	640 acres..	June, 1819	16 July, 1822.....	Testimony, &c., page 83.
2864	45 north.....	9 west..	300 arpens.	January, 1820...	16 July, 1822.....	Testimony, &c., page 83.
2832	53 north.....	20 west.	640 acres..	July, 1819.....	16 July, 1822.....	Testimony, &c., page 45.
2840	51 north.....	29 west.	160 acres..	.....	.....	Testimony, &c., page 51.
2839	50 north.....	30 west.	160 acres..	October, 1839....	2 December, 1839 .	Testimony, &c., page 51.
2844	45 north.....	6 east...	160 acres..	April, 1823.....	1 November, 1823.	Testimony, &c., page 51.
2865	45 north.....	9 west..	200 arpens	January, 1820...	8 November, 1828..	Testimony, &c., page 81.
2893	52 north.....	18 west.	909.86 acres	July, 1819.....	16 July, 1822.....	Testimony, &c., pages 71 & 82.
2913	50 north.....	16 west.	400 arpens.	March, 1823.....	6 January, 1825...	Testimony, &c., page 69.
2941	21 north.....	14 east.	640 acres..	August, 1847	31 January, 1848..	Testimony, &c., page 40.
2853	.....	.....	640 acres..	.....	.....	Testimony, &c., page 61.
2867	48 north.....	16 west.	640 acres..	January, 1817...	23 February, 1845.	Testimony, &c., page 84.
2858	45 north.....	9 west..	160 acres..	January, 1820...	8 March, 1820.....	

REMARKS.

493. Pat'd Nov. 13, 1822. Rec. v. 3, p. 14. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.
494. Pat'd Nov. 13, 1822. Rec. v. 3, p. 17. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.
495. Pat'd Nov. 13, 1822. Rec. v. 3, p. 24. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1872.
496. Pat'd Nov. 13, 1822. Rec. v. 3, p. 16. Sent to N. Wash, Nov. 21, 1822. *See* to recorder, May 1, 1822.
499. Pat'd Jan'y 19, 1829. Rec. vol. 7, pp. 76 to 78.
500. The original claim itself. (See No. 267 of Exhibit A, surveyed in t's 22 & 23, N., R. 14 E.)
501. Pat'd Nov. 6, 1827. Rec. vol. 6, p. 19 to 21. Sent to R. D. Dawson, Nov. 1827. *See* to recorder, May 1, 1871. Certificates Nos. 434, 435, & 501 make up 640 acres.
502. Pat'd June 26, 1826. Rec. vol. 5, pp. 271 to 273.
503. Pat'd July 28, 1848. Rec. vol. 10, pp. 273 to 277. Sent to Robt. G. Watson, Aug. 22, 1848.
504. Located in Arkansas, on Fourche Caddo Creek, branch of Ouchita River.
505. Pat'd June 21, 1820. Rec. vol. 2, p. 269. Sent to Taylor Berry.

369 EXHIBIT F.—*New Mad*

Number of certificate.	Names of the claimants and confirmees.	Date of the issue of the certificates.	Date of the location of the certificate.	Date of the act confirming the original claim, and reference to previous exhibits.
507	John B. Barseloux.	24 December, 1818.	1 February, 1821.....	29 April, 1816; No. 522 of Exhibit B.
508	Bernard & Anthony Laffind.	30 December, 1818.	16 July, 1819.....	3 March, 1807; No. 632 of Exhibit A.
509	Resa Bowie.....	30 December, 1818.	2 February, 1819.....	2 March, 1805; No. 803 of Exhibit A.
510	Thomas W. Water's representatives, under Moses Burnet.	30 December, 1818.	25 January, 1819.....	2 March, 1805; No. 793 of Exhibit A.
511	John Butler.....	31 December, 1818.	10 July, 1819.....	2 March, 1815; No. 1103 of Exhibit A.
512	Francis Trenchard.	30 December, 1818.	5 February, 1819.....	29 April, 1816; No. 561 of Exhibit B.
513	Francis Trenchard.	30 December, 1818.	23 February, 1819.....	29 April, 1816; No. 562 of Exhibit B.
514	Augustin Gonzales.	5 September, 1816..	21 December, 1819.....	29 April, 1816; No. 361 of Exhibit D.
515	John F. Almondros.	5 September, 1816..	21 December, 1819.....	29 April, 1816; No. 362 of Exhibit D.
516	Manuel Violet.....	5 February, 1816...	2 January, 1822.....	29 April, 1816; No. 472 of Exhibit B.

REMARKS.

507. Pat'd June 13, 1836. Rec. vol. 8, pp. 138 to 140. Sent to Hon. Wm. H. Ashley, June 15, 1836.
511. Pat'd Mch. 30, 1863. Rec. vol. , pp. 493 to 496. Sent to recorder of land-titles, Mch. 30, 1863.
512. Pat'd Mch. 24, 1827. Rec. vol. 5, pp. 311 & 312. Sent to Hon. H. R. Conway, Mch. 27, 1827.

rid claims—Continued.

Number of—			Quantity given in the certificate & contained in the survey.	Date of—		References to books in the recorder's office.
urvey.	Township.	Range.		Execution of the survey.	Return to the recorder.	
2906	44 north.....	11 west.	160 acres..	July, 1821.....	6 August, 1835.....	
2889	51 north.....	30 west.	400 arpens.	March, 1820.....	21 February, 1825.	Testimony, &c., page 69.
2885	49 north.....	16 west.	300 arpens.	September, 1837.	30 September, 1837.	Testimony, &c., page 90.
2881	50 north.....	16 west.	250 arpens.	July, 1819.....	.....	Testimony, &c., page 90.
2852	45 north.....	6 east..	200 arpens.	September, 1833.	.....	Testimony, &c., pages 23 & 91.
2890	44 north.....	10 west.	160 acres..	May, 1819.....	16 May, 1820.....	
2895	44 north.....	10 & 11 west.	160 acres..	February, 1819..	16 May, 1820	
2931	7 north.....	8 east...	320 arpens.	June, 1824.....	22 August, 1829....	Testimony, &c., page 50.
2932	7 north.....	8 east...	320 arpens.	June, 1824.....	22 August, 1829....	Testimony, &c., page 50.
2921	44 north.....	11 west.	160 acres..	November, 1844..	29 November, 1856.	Testimony, &c., page 28.

REMARKS.

513. Pat'd July 3, 1827. Rec. vol. 5, pp. 426 & 427. Sent to , July 5, 1827.
514. Situate in Arkansas.
515. Situate in Arkansas.

370 *Certified copy of a portion of the record of the late surveyor-general's office of Missouri.*

No. 467.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Nov. 36, 1818.

I certify that a tract of two hundred arpens of land, situate bayou St. John, in the county of New Madrid, which appears from the books of this office to be owned by Francis Langlois, has been materially injured by earthquakes; and that, in conformity to the provisions of the act of Congress of 17 Feb'y, 1815, the said Francis Langlois, or his legal representatives, is entitled to locate two hundred arpens of land on any of the public lands of the Territory of Missouri the sale of which is authorized by law.

Com'r Mtgs., vol. 5, p. 88.

FRED'RICK BATES.

MISSOURI TERRITORY,
County of St. Louis :

I do hereby assign, transfer, and set over all my rights, title, claim, and interest for myself, and as attorney in fact for Francis Langlois, to or in the within certificate, and all the benefits and rights to be derived therefrom, to Samuel Hammond, his heirs and assigns, for and in consideration of the sum of six hundred and forty dollars, which sum I have received from the said Hammond in full consideration for the premises aforesaid.

Witness my hand this 4th Jan'y, 1818.

JOSEPH STORY,
Attorney in Fact for Francis Langlois.

AUDITOR'S OFFICE, LITTLE ROCK, ARK'S.

I, Stephen Wheeler, auditor of State Arkansas, do hereby certify that the foregoing page, and this page contains a full, true, and perfect copy of an instrument of writing, with indorsement, on file in this office, among the records received from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office at Little Rock, Ark., this 12th day of Feb., 1873.

[SEAL.] STEPHEN WHEELER, *Auditor.*

UNITED STATES OF AMERICA,
State of Arkansas :

Know ye that I, Elisha Baxter, governor of the State of Arkansas, hereby certify that Stephen Wheeler, whose name is affixed to the annexed certificate, was, on the 12th day of Feb., in the year of our Lord eighteen hundred and seventy-three, custodian of the archives United States surveys in the State of Arkansas, duly commissioned and qualified according to law, and duly authorized according to the laws of said State to grant said certificate, and that said attestation is in due form of law, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Arkansas. Done at the city of Little Rock, this 12th day of February, in the year of our Lord one thousand eight hundred and seventy-three, of the Independence of the United States the ninety-seventh, and of the State of Arkansas the .

By the governor.

ELISHA BAXTER.

STATE OF ARKANSAS,
Office of Secretary of State:

I, J. M. Johnson, secretary of state, Arkansas, certify that Elisha Baxter, whose name is subscribed to the annexed and foregoing instrument of writing, was at the time of signing the same governor of the State of Arkansas, duly qualified.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Little Rock this 12th day of February, A. D. 1873.

[SEAL.] J. M. JOHNSON,
Secretary of State.

(Indorsed:) 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 6245. No. 1. Certified copy of a portion of the record of the late surveyor-general's office of Missouri, returned to the State auditor of Arkansas, being New Madrid certificate No. 467, and assignment of same to Hammond & Rector. Filed Oct. 4, 1873. J. R.

Copy of the last will and testament of Elias Rector.

Feeling impressed with the belief that I may soon die, and being now of sound and disposing mind, I do make this my last will and testiment.

First. It is my will and desire that my beloved wife, Frances B., have, hold, and retain to herself, in full and entire property, all the estate, real, personal, or mixed, of every description, which has or m'y have de'cended to her from her deceased father's estate, and perticularly the negro's that have descended to her since her mother's death, and which are yet undivided amongst the heirs; and also a tract of land containing two or three hundred acres, more or less, it being an undivided interest held by her as one of the heirs of her father, John Thurston, in and to a tract situate on Sandy. And it is, furthermore, my will and desire that my dear wife hold and enjoy a life-estate in every other species of property, real, personal, or mixed, of which I may die seized or possessed, or to which I might have become entitled by descent or inheritance.

Secondly. It is my will and desire that my estate, at the death of my said wife, may be equally divided amongst my three children, whose tender ages will impose upon their kind mother a long and tro'blesome guardianship, which, I am well assured, she will take upon herself che'rfully, and, i.. the discharge thereof, acquit herself as becomes an affectionate mother.

Thirdly. I do nominate my beloved brother, Gen'l William Rector, and my esteemed friend, Gen'l William Ashly, to be executors of this my last will. As witness my hand and seal this ninth day of August, eighteen hundred and twenty-two.

ELIAS RECTOR. [SEAL.]

Attest:
B. G. FARRAR.
B. WASH.

STATE OF MISSOURI,
County of St. Louis, ss:

We, B. G. Farrar and Robert Wash, two subscribing witnesses to the within last will *and* testament, and solemnly swear that Elias Rector

signed and published the same as his last will and testament; that at the time of publishing the same he was of sound mind; and that
371 we, in his presence and at his request, signed the same as subscribing witnesses in the presence of each other.

R. WASH.
B. G. FARRAR.

Sworn and subscribed in open court August 30th, 1822.

SILAS BENT, *Clerk.*

Recorded Sept. 9th, 1822.

JOHN BENT, *Dep. Clk.*

STATE OF MISSOURI,
County of St. Louis:

I, Wm. E. Wagner, clerk of the probate court of the county of St. Louis, do hereby certify that the foregoing is a true copy of the last will and testament of Elias Rector, deceased, and of the probate thereof as fully as the same remains on file and appears of record in my office.

In testimony whereof I hereunto set my hand and affix the seal of said court, at office, this 14th day of March, A. D. 1873.

W. E. WAGNER, *Clerk.*

STATE OF MISSOURI,
County of St. Louis, ss:

I, J. G. Woerner, sole and presiding judge of the probate court in and for said county, in the State aforesaid, do hereby certify that the foregoing attestation of Wm. E. Wagner, clerk of said court, is in due form.

Given under my hand at the city of St. Louis this 14th day of March, 1873.

J. G. WOERNER,
Judge of Probate.

STATE OF MISSOURI,
County of St. Louis, ss:

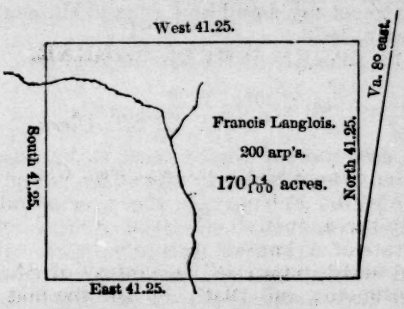
I, Wm. E. Wagner, clerk of the probate court of said county of St. Louis, hereby certify that J. G. Woerner, whose name appears to the foregoing certificate, is the sole presiding justice of the probate court in and for said county of St. Louis; that said J. G. Woerner is duly commissioned and qualified as such presiding justice; that his signature to the foregoing certificate is genuine; and full faith and credit should be given to all his official acts.

In witness whereof I hereto set my hand and affix the seal of said court, at office, this 14th day of March, 1873.

[SEAL.] W. E. WAGNER, *Clerk.*

(Indorsed:) 6245. United States Court of Claims. No. 6245. Henry M. Rector vs. The United States. No. 2. Certified copy of the last will and testament of Elias Rector, deceased, from the probate court records of the county of Saint Louis. Filed Oct. 4, 1873. J. R.

Copy of records of original survey, by Conway, of hot springs location. Survey 2903.—Certificate No. 467.



Surveyed for Francis Langlois, or his legal representatives, 200 arpens of land located by virtue of a New Madrid certificate, beginning at a post from which a pine 10 in. in diameter (marked thus, H. and R.) bears S. 47 E., 8 links; thence south, 7 chains; a creek 15 links wide runs east; at 41 ch's and 25 l'ks set a post, from which a pine 15 in. in diameter bears N. 47½ E., 23 links; thence east 19 ch's and 25 l'ks, to Hot Spring Creek, 25 l'ks wide, runs south; at 41 ch's and 25 links set a post, from which a P. oak 10 inches in diameter bears S. 84 E., 6 links; thence north (here a piece is gone from the paper) at 41 ch's and 25 links set a post, from which a red oak 6 inches in diameter bears S. 62° W., 16 links; thence west 41 ch's and 25 l'ks to the beginning.

July 16, 1820.

JAMES S. CONWAY, *D. Surveyor.*

SURVEYOR'S OFFICE,
Little Rock, Ark., 23rd Sept., 1850.

This paper and a duplicate of the same were left at this office, to be filed with the papers of New Madrid claim certificate No. 467, on the 18th day of June, 1850, by Henry M. Rector, but are not of record here now known as constituting any part of the official papers connected with said claim.

The duplicate was withdrawn by Henry M. Rector on the 12th day of Sept., 1850.

GEO. A. WORTHEN,
Chf. Clk.

AUDITOR'S OFFICE, *Little Rock, Ark.*

I, Stephen Wheeler, auditor of the State of Arkansas, do hereby certify that the foregoing page and this page contain a full, true, and perfect copy of an instrument of writing on file among the records of this office.

In testimony whereof I have set my hand and affixed the seal of office at Little Rock, Ark., this twelfth day of February, 1873.

[SEAL.] STEPHEN WHEELER, *Auditor.*

AUDITOR'S OFFICE, *Little Rock, Ark.*

I, Stephen Wheeler, auditor of Ark's, do further certify that the *original, of which the foregoing is a copy, is on file in my office among

*The original paper, of which the foregoing is a true copy, was withdrawn this day, (Feb'y , 1872,) by Henry M. Rector, to be used in evidence in the "hot spring' suit" now pending in the U. S. Court of Claims.

(Signed) J. R. BERRY,
Auditor of State.

The above is endorsement on office-copy on file in this office.
Auditor's office, Little Rock, Feb'y 12th, '73.

STEPHEN WHEELER, *Auditor.*

372 the papers received at this office from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office, this twelfth day of February, 1873.

[SEAL.] STEPHEN WHEELER, *Auditor.*

UNITED STATES OF AMERICA,
State of Arkansas:

Know ye that I, Elisha Baxter, governor of the State of Arkansas, hereby certify that Stephen Wheeler, whose name is affixed to the annexed certificate, was, on the 12th day of Feb'uary, in the year of our Lord eighteen hundred and seventy-three, custodian of the archives of the United States surveys in the State of Arkansas, duly commissioned and qualified according to law, and duly authorized according to the laws of said State to grant said certificate; and that said attestation is in due form of law; and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Arkansas. Done at the city of Little Rock, this 12th day of February, in the year of our Lord one thousand eight hundred and seventy-three, of the Independence of the United States the ninety-seventh, and of the State of Arkansas the .

By the governor.

ELISHA BAXTER.

STATE OF ARKANSAS,
Office of Secretary of State:

I, James M. Johnson, secretary of state, Arkansas, certify that Elisha Baxter, whose name is subscribed to the annexed and foregoing instrument of writing, was at the time of signing the same governor of the State of Arkansas, duly qualified.

In testimony whereof I have hereunto set my hand and seal of office at Little Rock this 12th day of February, 1873.

[SEAL.] J. M. JOHNSON,
Secretary of State.

(Indorsed:) 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 6245. No. 3. Certified copy of the records of original survey, by Conway, of hot springs location, as returned to the State auditor from the surveyor-general's office of Arkansas. Filed Oct. 4, 1873. J. R.

Copy of instructions for Hale's survey.

SURVEYOR'S OFFICE,
Little Rock, 12th May, 1837.

SIR: You will herewith receive a sketch of your district, with the necessary description of corners on the black or surveyed lines. You will also receive a copy of the locations of New Madrid certificate No. 467, which you are required to survey in exact accordance with the location & previous to the survey of the public lines. The survey is to contain the exact quantity of 200 arpens, or 170$\frac{14}{100}$ acres, and you will show by your operations the main spring to be in the middle thereof. At the corners of the survey, you will take one bearing-tree within the survey, marked P. S., and one bearing-tree without.

The following is the form for keeping the notes of the survey:

Certificate No. 467.

Surveyed for Francis Langlois or his legal representatives 200 arpens, equal to $170\frac{14}{100}$ acres of land, beginning at the main hot spring of Arkansas; thence, (on an unmarked line until you establish a corner,) &c., set a post, corner of said survey, from which, &c., bears, &c., links, & marked "P. S.," and a, &c., bears, &c., links; thence, &c., the beginning corner-post. At the intersections of a township or section line with the private survey, you will establish a corner to the proper sections, and extend the lines in the usual manner, except that part being unmarked, lying within the private survey.

The east boundaries of t'ns. 3 S., W., r's 18 & 19 st. will be run north to their intersection with the south boundary of T. 2 S., and corners established to t'ns. 3 south.

In meandering, you will state whether it be on the right or left bank of a river at what corner you commence and close the meanders. In closing meanders on an old-surveyed line where the corners has been destroyed you will establish a new one and state the distance to the nearest known corner on the line. Bearing-trees to corners should invariably be taken in the sections which the corner denotes. The red lines on your sketch are laid down as it is supposed you will find them on the ground. The S. boundaries of t'n's 1, 2, & 3, R. 19, will probably vary from the cardinal points some degrees. From the difficulty which has been and will be found in surveying this district, more than ordinary care will be required to ensure a correct execution of the work.

These instructions and sketch will be returned with your field-notes to this office.

I am, sir, respectfully, your obt. sevt.,

EDW. CROSS,
Sur. of Pub. Lands.

J. C. HALE, *D. S.*

AUDITOR'S OFFICE, LITTLE ROCK, ARKANSAS.

I, Stephen Wheeler, auditor of the State of Arkansas, do hereby certify that the foregoing two pages and this page contain a full, true, and perfect copy of an instrument of writing on file among the records of this office.

In witness whereof I have set my hand and affixed the seal of office, at Little Rock, Arkansas, this twelfth day of August, A. D. 1873.

[SEAL.] STEPHEN WHEELER,
Auditor.

AUDITOR'S OFFICE, LITTLE ROCK, ARKANSAS.

I, Stephen Wheeler, auditor of Ark's, do further certify that the original of which the foregoing is a copy is on file in my office, among the papers received at this office from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office this twelfth day of February, 1873.

[SEAL.] STEPHEN WHEELER,
Auditor.

(Indorsed:) Copy of instructions to J. C. Hale, D. S., 12th May, 1837.

373 UNITED STATES OF AMERICA,
State of Arkansas:

Know ye that I, Elisha Baxter, governor of the State of Arkansas,

hereby certify that Stephen Wheeler, whose name is affixed to the annexed certificate, was on the 12th day of February, in the year of our Lord eighteen hundred and seventy-three, custodian of the archives of United States surveys in the State of Arkansas, duly commissioned and qualified according to the laws of said State to grant said certificate, and that said attestation is in due form of law, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Arkansas. Done at the city of Little Rock this 12th day of Feb., in the year of our Lord one thousand eight hundred and seventy-three, of the Independence of the United States the ninety-seventh, and of the State of Arkansas the 37th.

ELISHA BAXTER,
Governor.

By the governor.

J. M. JOHNSON,
Secretary of State.

STATE OF ARKANSAS,
Office of Secretary of State:

I, James M. Johnson, secretary of state, Arkansas, certify that Elisha Baxter, whose name is subscribed to the annexed and foregoing instrument of writing, was at the time of signing the same governor of the State of Arkansas, duly qualified.

In testimony whereof I have hereunto set my hand and seal of office at Little Rock this 12th day of February, 1873.

[SEAL.]

J. M. JOHNSON,
Secretary of State.

(Indorsed:) 6245. United States Court of Claims. Henry M. Rector against The United States. No. 6245. No. 4. Certified copy of instructions for Hale survey by surveyor-general of Arkansas, as returned to the office of State auditor of Arkansas by the surveyor-general. Filed Oct. 4, 1873. J. R.

Decree of circuit court of Hot Spring County, Arkansas.

STATE OF ARKANSAS,
County of Hot Spring:

Be it remembered that on the second day of March, A. D. 1853, in the circuit court of said county, on the chancery side thereof, the honorable John C. Murray, judge of said court, presiding, the following, among other proceedings, were had in the case of Henry M. Rector, complainant, against Francis Langlois, Joseph Storey, and Samuel Hammond and his wife, Eliza Hammond, viz:

HENRY M. RECTOR
vs.
FRANCIS LANGLOIS, JOSEPH STOREY, SAMUEL Hammond & his wife, Eliza Hammond.

Comes the complainant, and it appearing to the court that the defendants had been regularly notified of the pendency and objects by publication in the manner and for the time prescribed by law, prior to the last term of this court, a copy of which order and an affidavit of such publication is of record herein, which is ordered to constitute part of the

proceedings and remain of record herein, and that at the last term of this court said defendants wholly failed to appear and plead herein. Whereupon, at said term, the said bill and the allegations thereof were ordered and decreed to be taken as true and confessed as against said defendants, and said defendants having still wholly failed to appear or to plead herein, or to show any cause whatever against a final decree herein.

And it now appearing to the court here that the said Francis Langlois, by virtue of the act of Congress of the 17th of February, 1815, for the relief of the inhabitants of the late county of New Madrid, in the then Territory of Missouri, was entitled to two hundred arpents of land, and to locate the same land in conformity to the said act of Congress.

And in evidence of such right of said Francis, about 20th Nov., 1818, Frederick Bates, recorder of land-titles for the Territory of Missouri, in conformity to said act of Congress, issued to said Francis a location-certificate, commonly called a New Madrid certificate, giving the right to said Francis and his legal representatives to locate or enter, by virtue thereof, with the principal deputy-surveyor, or for the Territory of Missouri, said two hundred arpents of land on any of the public lands in said Territory the sale of which was authorized by law, which right of location and certificate, by his deed dated about 10th Nov., 1818, said Francis Langlois empowered and authorized said Joseph Storey, with full power of substitution, to sell and convey said right and certificate absolutely, and select and locate the lands in virtue thereof. And said Storey, about 24th day of Feb., A. D. 1820, by his deed, granted, bargained, and sold said certificate and rights of entry to said Samuel Hammond and Elias Rector, with covenants of warranty. And said Samuel Hammond and Eliza Hammond, by their deed dated 19th February, A. D. 1819, granted, bargained, and sold unto said Elias Rector, his heirs and assigns forever, in fee-simple, the said certificate and right of entry, and the lands selected and located in virtue thereof as next mentioned with covenants of warranty; that said Hammond and Rector, while owners of said claim, in pursuance of said act of Congress, A. D. 1819, by application and notice addressed to Gen. Wm. Rector, surveyor-general of Illinois and Territory of Missouri, located said New Madrid certificate upon and selected the hot springs, on the waters of the Washita River, now in the State of Arkansas, including said hot springs, the exterior lines of which location to run to the cardinal points, and to be surveyed in a square tract, which said hot springs now lie in said county of Hot Springs; and, in accordance with said notice of location, the boundary-lines of said lands and survey were marked and surveyed, and by the corners thereof established, about the 16th day of July, A. D. 1820,

James S. Conway, deputy surveyor under said General William Rector aforesaid, which survey, filed-notice thereof, and plats were duly returned to said file in the office of the surveyor-general aforesaid in duplicate; that afterwards, about the 28th day of Feb., 1838, one John C. Hale, deputy surveyor of the United States, by order of Edward Cross, surveyor-general of the United States for the State of Arkansas, made a resurvey of said location of said Madrid certificate on said springs, and returned the plat and filed-notes thereof to said surveyor-general's office, which survey so made by said Hale, as such deputy surveyor, contains, as granted by said acts of Congress, and as stated in said
374 certificate by said Frederick Bates, dated 20th day Nov., 1818, No. 467, two hundred arpents of land, equal to one hundred and seventy and fifteen-hundre'ths acres of land, and describes and identifies the land as follows, the variation of the compass being 8° 45′ east,

to wit: Begin'ing at the main hot spring of Arkansas, thence south 45° east on an unmarked line, 29.17 chains, where was set a post th' southeast corner of said survey, from which a pine 24 inches diameter bears north 7° east, 40 links, and a pine 16 inches in diameter, bearing north 67° west, 53 links, each marked P. S. and B. T.; thence north with the line of the survey at 204 links, a white oak 13 inches diameter, at 41.25 chains to a post th' northeast corner of said survey, from which a pine 16 inches diameter bears north 42 east, 15 links, and a black oak 8 inches diameter bears south 68° west, 15 links, each marked P. S. & B. T.; thence west, at 355 links a white oak 24 inches in diameter, at 41.25 chains to post set the northwest corner of said survey, from which a white oak 16 inches diameter bears north 18° east, 48 links, and a white oak 18 inches diameter bears south 58° east, 56 links, each marked P. S. and B. T.; thence south at 60 links, a white oak at 12.10 chains, Hot Spring Creek bears east at 41.25 chains, to a post the southwest corner of said survey, from which a black oak six inches diameter bears north 48° east, 21 links, and black oak 10 inches in diameter bears north 28° west, 20 links; thence east at 563 links, a black oak 12 inches diameter, at 18.87 chains. Hot Springs Creek bears south at 41.25 chains the southeast corner of said survey, the main hot springs being at the 'entre thereof, which survey numbers 2903, platt-map and field-notes were transmitted to the recorder of land-titles at St. Louis, Missouri, who was then Frederick B. Conway, that the patent therefor might issue according to law, with which were also transmitted the notice of selection and location in said hot springs by said Hammond & Rector, &c., wherefore said Frederick B. Conway, in conformity to law, issued a patent-certificate upon said , in conformity to said survey, to & in favor of said Langlois or his representatives, establishing and evidencing their right to said lands so surveyed and selected, to the end that patent from the Government of the United States might issue, which patent, however, never has issued; that said complainant is sole heir of Elias Rector, and is now entitled to the absolute fee in & to the said land and to a conveyance thereof in absolute fee, from said defendants, and to have vested in him and heirs together all and every right of said defendants, and every of them, and to said right and certificate and lands, and to have his title quieted & forever settled in respect thereto, as against said defendants, & those claims under them or any of them. It is therefore considered, ordered, adjudged, and decreed by the court here that the said Francis Langlois, Joseph Storey, and Samuel Hammond and Eliza Hammond, his wife, and each of them severally, do make, seal, and deliver a deed or deeds in absolute fee to the said complainant, his heirs & assigns, forever, for all the right, interest, and estate of each and every of them in and to the said right under said act of Congress, and said certificate and the lands so surveyed and selected as aforesaid including said hot springs, and that the absolute right and title in fee to said right, certificate, location, and the aforesaid lands be, and the same is hereby, divested out of said defendants, and each and every of them, & those holding under them, or any of them, and transferred to and vested in the said complainant, his heirs and assigns, forever, and title of said complainant be, and the same hereby is, finally declared and established and perpetually quieted and settled as to the said defendants and each and every of them.

And it is further ordered and decreed that defendants pay the costs of this suit, &c., &c.

STATE OF ARKANSAS,
County of Hot Springs:

I, A. H. Bassett, county clerk and ex-officio clerk of the circuit court for said county, do hereby certify that the foregoing six pages contain a true and perfect transcript from the record of said court, this 9th day of August, A. D. 1870.

A. H. BASSETT, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, John P. Emerson, clerk of the circuit court in and for the county and State aforesaid, do hereby certify that the foregoing five pages contain a true, perfect, and correct transcript from the record in the foregoing cause.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of office thereto, at Rockport, on this 23d day of March, A. D. 1853.

[L. S.] JNO. P. EMERSON, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, John P. Emerson, clerk of the court and ex-officio rec'rder in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed in my office for record on the 23d day of March, 1853, and is now duly recorded in record D, on pages 205, 206, & 207, & 208, & 209.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of office thereto, at Rockport, on the 23d of March, A. D. 1853.

[L. S.] JNO. P. EMERSON,
Clerk & Ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Springs, ss:

I, A. H. Bassett, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument is a true and perfect copy of the record of a deed from Francis Langlois and Barbara Langlois to Joseph Story, with the certificate of the acknowledgement of the same, and that I have compared the same with the record in my office and find the same to be a true copy thereof.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court at my office in Rockport this 20th day of February, A. D. 1873.

[SEAL.] A. H. BASSETT, *Clerk.*

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Springs, ss:

I, A. H. Bassett, clerk of the circuit court of said county of Hot Springs, and ex-officio recorder of said county, hereby certify that John Whytick, whose name appears to the foregoing certificate, is the presiding justice of the circuit court in and for said county of
375 Hot Spring; that said John Whytick is duly commissioned and qualified as such presiding justice; that his signature to the foregoing certificate is genuine, and that full faith and credit should be given to all his official acts.

[SEAL.] A. H. BASSETT, *Clerk.*

STATE OF ARKANSAS,
Office of Secretary of State :

I, J. M. Johnson, secretary of state, Arkansas, certify that A. H. Bassett, whose name is subscribed to the annexed and foregoing instrument of writing, was at the time of signing the same the clerk in and for the county of Hot Spring, in this State, duly commissioned and qualified and I further certify that the said attestation is in due form and by the proper officer.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Little Rock this sixth day of March, in the year of our Lord one thousand eight hundred and seventy-three.

[SEAL.] J. M. JOHNSON,
Secretary of State, Arkansas.

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 5. Certified copy of decree of circuit court of Hot Springs County, Arkansas, vesting title to two hundred arpens of land, including said springs, in Henry M. Rector as against defendants in said action. Filed October 4, 1873. J. R.

Certified copy of the records of the office of the late surveyor-general of Missouri.

GEN'L WM. RECTOR,
Surveyor-General of the Public Lands
for the State of Illinois and Territory of Missouri :

The undersigned applies for the entry or location of two hundred arpins of land to satisfy a certificate issued by Frederick Bates, esq., recorder of land-titles for the Territory of Missouri, to Francis Langlois or his legal representatives, dated the 26 November, 1818, and numbered four hundred and sixty-seven, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, and to include the hot springs, (so called,) upon the waters of Ouachita River, south of the river Arkansas; the said springs to be as near the center of the square as circumstances will admit. An order of survey is solicited and directions agreeably to this notice. The springs so to be included are those generally known as the largest and most resorted to upon that river.

St. Louis, 27 January, 1819.

S. HAMMOND.
ELIAS RECTOR.

AUDITOR'S OFFICE, LITTLE ROCK, ARK.

I, Stephen Wheeler, auditor of the State of Arkansas, do hereby certify that the foregoing page contains a full, true, and perfect copy of an instrument of writing on file among the records of the office.

In witness whereof I have set my hand and affixed the seal of office at Little Rock, Arkansas, this first day of August, A. D. 1870.

JAMES R. BERRY.
[SEAL.] STEPHEN WHEELER, *Auditor.*

AUDITOR'S OFFICE, LITTLE ROCK, ARK.

I, Stephen Wheeler, auditor of Ark., do further certify that the original of which the foregoing is a copy is on file in my office among the papers received at this office from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office this 12th day of February, 1873.

[SEAL.] STEPHEN WHEELER, *Auditor.*

UNITED STATES OF AMERICA,
State of Arkansas:

Know that I, Elisha Baxter, governor of the State of Arkansas, hereby certify that Stephen Wheeler, whose name is affixed to the annexed certificate, was, on the 12th day of February, in the year of our Lord eighteen hundred and seventy-three, custodian of the archives of United States surveys in the State of Arkansas, duly commissioned and qualified according to law, and duly authorized according to the laws of said State to grant said certificate; and that said attestation is in due form of law, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Arkansas. Done at the city of Little Rock this 12th day of February, in the year of our Lord one thousand eight hundred and seventy-three, of the Independence of the United States the ninety-seventh, and of the State of Arkansas the 37th.

By the governor.

ELISHA BAXTER.

STATE OF ARKANSAS,
Office of Secretary of State:

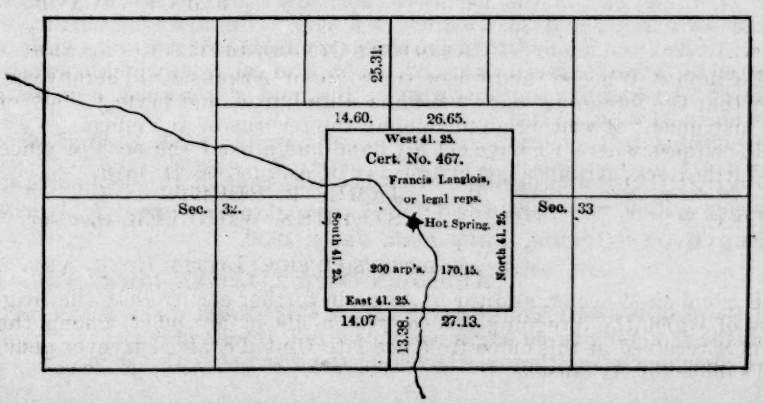
I, James M. Johnson, secretary of state, Arkansas, certify that Elisha Baxter, whose name is subscribed to the annexed and foregoing instrument of writing, was at the time of signing the same governor of the State of Arkansas, duly qualified.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Little Rock this 12th day of February, 1873.

[SEAL.] J. M. JOHNSON,
Secretary of State.

(Indorsed:) 6245. United States Court of Claims. Filed Oct. 4, 1873 J. R. Henry M. Rector vs. The United States. No. 6245. No. 6. Certified copy of the records of the office of the late surveyor-general of Missouri returned to the State auditor of Arkansas, being application of Hammond and Rector to locate New Madrid certificate No. 467, to cover the Hot Springs at Ouachita.

376 *Copy of Hale's survey of hot springs location, by Hammond & Rector.*



Certificate No. 467.

Var. 8° 45 east.

Surveyed for Francis Langlois, or his legal representatives, who claim location by virtue of certificate No. 467, issued by Frederick Bates, recorder of land-titles, on the 26th Nov., 1818, two hundred arpens, equal to one hundred and seventy and fifteen-hundreths acres of land, beginning at the main hot spring of Arkansas, thence S. 45° E. on an unmarked line 29.17 chs. where set a post the southeast corner of said survey, from which a pine, 24 in. dia., bears N. 7° E., 40 lks., and a pine, 16 ins. dia., bears N. 67° W., 53 lks., each marked P. S. and B. T.; thence north with the line of the survey at 204 lks., a white oak, 13 in. dia., at 41.25 chs. set a post the northeast corner of said survey, from which a pine 16 ins. dia. bears N. 45° E., 14 lks., and a black oak, 8 ins. dia., b'rs S. 68° W. 15 lks., each marked P. S. and B. T.; thence west, at 355 lks., a white oak, 24 in. dia., at 41.25 chs. set a post the northwest corner of said survey, from which a white oak, 16 in. dia., b'rs N. 10° E., 48 lks., and a white oak, 18 in. dia., b'rs S. 58° E., 56 links, each marked P. S. and B. T.; thence south at 60 lks., a white oak at 12.10 chs. Hot Spring Creek bears east at 41.25 chs. set a post the southwest corner of said survey, from which a black-oak, 6 ins. dia., bears N. 48° E., 21 lks., and a bl'k oak, 10 in. dia., b'rs N. 28° W., 50 lks.; thence east at 563 links, a black oak, 12 ins. dia., at 18.87 chs. Hot Spring Creek b'rs south at 41.25 chs. the southeast corner of said survey.

In conformity with instructions from the surveyor-general, I have surveyed the foregoing location or claim in the name of Francis Langlois, so that the main hot spring is in the centre thereof.

28th Feb., 1838.

JOHN C. HALE, *D. S.*

Extract from the field-notes of T. 2 south, R. 19 west of the 5 principal M. north, between secs. 32 and 33, T. 2 S., R. 19 W., var. 7° 15 E.:

305. A black oak, 16 in. dia.

13.38. Private survey of Francis Langlois. Set a post 14.07 chs. east of the southwest corner to said private survey corner to secs. 32 and 33, from which a waters oak, 20 in. dia., b'rs south 37° E., 68 lks., and a gum 12 ins. dia., b'rs south 27 west, 23 lks.

34.00 at a point due west of the main hot spring, and 720 lks. therefrom, 54.69. Intersected the north boundary of survey of Francis Langlois 14.60 chs. east of the northwest corner of said survey, set a post corner to secs. 32 and 33, from which a pine 14 in. dia. b'rs north 17° west, 12 lks., and a pine 16 ins. dia. b'rs north 27 east, 31 lks.

80.00 set a post corner to secs. 32, 33, 28, and 29, from which a sweetgum, 20 ins. dia., b'rs south 54 west 21 lks., and a' ironwood, 6 in. dia., b'rs north 34 west, 43 lks.

(Signed) J. C. HALE.

I certify that the foregoing extract is a true copy of the field-notes of the survey thereof on file in this office.

SURVEYOR'S OFFICE, *Little Rock, Jan'y*, 1839.

AUDITOR'S OFFICE, LITTLE ROCK, ARK.

I, Stephen Wheeler, auditor of the State Arkansas, do hereby certify that the foregoing three pages contains a full, true, and perfect copy of an instrument of writing on file among the records of this office.

In witness whereof I have set my hand and affixed the seal of office at Little Rock, Ark., this twelfth day of Feb., A. D. 1873.

[SEAL.] STEPHEN WHEELER, *Auditor.*

AUDITOR'S OFFICE, LITTLE ROCK, ARK.

I, Stephen Wheeler, auditor of Arkansas, do further certify that the original of which the foregoing is a copy is on file in my office among the papers received at this office from the late United States surveyor-general's office for Arkansas.

In witness whereof I have hereunto set my hand and affixed the seal of office this 12th day of Feb., A. D. 1873.

[SEAL.] STEPHEN WHEELER.

UNITED STATES OF AMERICA,
State of Arkansas:

Know ye that I, Elisha Baxter, governor of the State of Arkansas, hereby certify that Stephen Wheeler, whose name is affixed to the annexed certificate, was, on the 12th day of February, in the year of our Lord eighteen hundred and seventy-three, custodian of the archives of United States surveys in the State of Arkansas, duly commissioned and qualified according to law, and duly authorized according to the laws of said State to grant said certificate; and that said attestation is in due form of law, and that full faith and credit are due his official acts.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Arkansas.

Done at the city of Little Rock this 12th day of February, in the year of our Lord one thousand eight hundred and seventy-three, of the Independence of the United States the ninety-seventh, and of the State of Arkansas the 37th.

ELISHA BAXTER.

By the governor:

J. M. JOHNSON,
Secretary of State.

377 STATE OF ARKANSAS,
Office of Secretary of State:

I, J. M. Johnson, secretary of state, Arkansas, certify that Elisha Baxter, whose name is subscribed to the annexed and foregoing instrument of writing, was at the time of signing the same governor of the State of Arkansas, duly qualified.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Little Rock this 12th day of February, A. D. 1873.

[SEAL.] J. M. JOHNSON,
Secretary of State.

(Indorsed:) 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 6245. No. 7. Certified copy of Hale survey of hot spring location by Hammond & Rector, as returned by the surveyor-general to the State auditor of Arkansas. Filed Oct. 4, 1873. J. R.

Copy of New Madrid certificate No. 470.

No. 470.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, November 26, 1818.

I certify that a lot of one arpen, in the town of N. Madrid, county of

N. Madrid, which appears from the books of this office to be owned by Francis Langlois, has been materially injured by earthquakes, and that s'd Fr's Langlois has been heretofore relieved, in conformity with the provisions of the act of Congress of 17th February, 1815, by the issue of the following cert's, to wit: No. 270 & 271, each for any quantity of land not exceeding one hundred and sixty acres, cert. No. 467 for two hundred arpens; therefore further certify that there is still due to said Fr's Langlois, or to his legal representatives, the balance which may remain of six hundred and forty acres, the maximum of relief provided by the said act, provided s'd balance shall not exceed one hundred and sixty acres, after deducting from said maximum, to wit, from the 640 acres, the amt. of locations made or to be made by authority of said certificates, No. 270, 271, 467. This balance or any less quantity, at the option of the owner, is entitled to location on any of the public lands of the Territory of Missouri the sale of which is authorized by law.

(Signed) FREDERICK BATES.

Richard Matson, as the legal representative of Francis Langlois, enters any quantity of land which may remain to be located upon certificate No. 470, dated November 26, 1818, issued by the recorder of land-titles for the Missouri Territory, not to exceed one hundred and fifty acres, to be taken off from the north part of the northeast quarter of section No. 23, in township No. 59 north of the base line, range No. 6 west of the 5th p'l meridian, in the Territory of Missouri.

St. Louis, Apl. 8th, 1819.

(Signed) RICHARD MATSON.

OFFICE OF THE U. S. RECORDER OF LAND-TITLES,
St. Louis, August 6th, 1873.

This is to certify that foregoing is a true and correct copy from the original New Madrid certificate No. 470, with accompanying paper attached; which originals are up to this day preserved on file in this office.

STILLMAN O. FISH, *Recorder.*

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 8. Certified copy of New Madrid certificate No. 470, as the same is on file with the recorder of land-titles in Saint Louis. Filed Oct. 4, 1873. J. R.

Power of attorney from Francis Langlois.

Know all men by these presents that I, Francois Langlois, of the county of New Madrid, and Missouri Territory, for good causes and considerations me thereunto moving, have made, ordained, constituted, and appointed, & by these presents do make, ordain, constitute, and appoint, Joseph Story, of the county & Territory aforesaid, my true & lawful agent & attorney in fact, irrevocable for the purposes following, to wit: Whereas the liberality, justice, and wisdom of the Congress of the United States, by an act approved the 17th day of Feb'y, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," provides that those whose lands have been materially injured by earthquakes shall be authorized to locate the like or a greater quantity on any of the public lands of the said Territory the sale of which is authorized by law; & being one of those who are entitled to any of the provisions of the said act:

Now, know ye that I, Francois Langlois, have given, & hereby do give, full power & authority to my said attorney to locate on any of the aforesaid public lands in the said Territory any quantity of land which I may be entitled to by virtue of the aforesaid act for his own proper use, benefit, & behoof, & that of his heirs & assigns forever; and to sell & convey & transfer the same absolutely to any person or persons whatever for such price and consideration which he may think fit; also with power & authority to my said attorney to sell & convey unto the United States, or any officer under the Government who receive' the same, my injured land, lying & being situate in the county of New Madrid & Missouri Territory, containing two hundred arpens, it being a tract of land confirmed by the late board of commissioners of land-claims for the aforesaid Territory, to Francois Langlois, on bayou St. John; and generally in the premises to do, execute, and perform all & whatsoever shall be requis*et* & necessary in as full & ample a manner as I myself might or could do were I personally present; also with power of substitution, hereby ratifying and confirming all whatsoever my said attorney shall lawfully do or cause to be done by virtue hereof. In witness whereof I have hereunto set my hand and seal this 10th day of November, anno Domino 1818.

his
FRANCOIS + LANGLOIS. [SEAL.]
mark.

Signed, sealed, & delivered in presence of—
RICH'D J. WATERS.
THOMAS Y. HORSLEY.

TERRITORY OF MISSOURI,
County of New Madrid, ss:

I, Rich'd Sessums, clerk of the southern circuit court within and for the county of New Madrid, do hereby certify that Thomas Y. Horsley, one of the subscribing witnesses to the within instrument of writing, this day personally came and appeared before me, and made oath
378 according to law that he was present and saw the within named and signed Francis Langlois sign, seal, and deliver, & heard him acknowledge the within and foregoing instrument of writing as his act and deed, hand & seal, for the use and purposes therein expressed; and that Rich'd J. Waters, the other subscribing witness, signed the same with himself, & in the presence of each other. In testimony whereof, there being no judicial seal yet provided to said court, I hereunto subscribe my name & affix my own private seal this November, 13th day, in the year 1818.

RICH'D SESSUMS, *Clk.* [SEAL.]

RECORDER'S OFFICE;
St. Louis, Missouri, 9th October, 1837.

I certify the foregoing to be a true copy of the original document on file in this office.

F. R. CONWAY,
U. S. Recorder of Land-Titles
in the State of Missouri.

Rec'd, recorder's office, St. Louis, Missouri, October 20, 1837, of F. R.

Conway, recorder of land-titles, the original power of attorney of which the foregoing is an exact copy. My object in obtaining it is to have it recorded to perfect the chain of title to the land located by the authority of said power of attorney.

HENRY M. RECTOR.

OFFICE OF THE U. S. RECORDER OF LAND-TITLES,
Saint Louis, August 14th, 1873.

This is to certify that the foregoing is a true copy of a copy of the original power of attorney of Francois Langlois to Joseph Story, which copy is up to this day preserved on file in this office.

STILLMAN O. FISH,
Recorder.

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 9. Certified copy of a power of attorney from Francis Langloise to Joseph Story, as the same appears of record in the office of the recorder of land-titles. Filed Oct. 4, 1873. J. R.

Copy of New Madrid certificate No. 271 to F. Langlois.

(A duplicate.)

No. 271.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Nov. 24th, 1815.

I certify that a lot in the village of Little Prairie, of one arpen, No. 101, square No. 26, which appears from the books of this office to be owned by Francois Langlois, has been materially injured by earthquakes, and that, in conformity to the provisions of the act of Congress of 17th Feb'y, 1815, the said Francois Langlois, or his legal representatives, is entitled to locate any quantity of land not exceeding one hundred and sixty acres on any of the public lands of the Territory of Missouri the sale of which is authorized by law. N. B.—This dupl. given on affidavit of the loss of *the loss of* the original.

(Signed) FREDERICK BATES.

William Kincheloe enters one hundred and sixty acres of land for Francois Langlois, or his legal representatives, by virtue of a certificate issued by the recorder of land-titles for the Territory of Missouri, in the following manner, to wit: So as to include the N. E. & N. W. fractional quarters of section No. 6, in township No. 48 north of the base-line, range No. 16 west of the 5th principal meridian, situate north of the Missouri River, Howard County, Missouri Territory.

(Signed) WM. KINCHELOE.

St. Louis, 6th July, 1818.

(In pencil on margin:) Withdrawn in consequence of an interference with pre-emption rights.

William Kincheloe, by his attorney, Samuel Gibbs, locates for Francois Langlois, or his legal representatives, one hundred and sixty acres of land, by virtue of a duplicate certificate (the original alleged to be lost) No. 271, dated at St. Louis, Nov. 24th, 1815, issued by the recorder of land-titles for the Missouri Territory to said Langlois, a sufferer by earthquakes in the late county of New Madrid, in said Territory, so as

to include the southwest quarter of section No. 21, in township No. 50 north of the base-line, range No. 16 west of the 5th principal meridian.

St. Louis, Nov. 21st, 1820.

SAMUEL GIBBS,
For WILLIAM KINCHELOE.

WM. RECTOR, Esquire,
Surveyor of Public Lands.

OFFICE OF THE U. S. RECORDER OF LAND-TITLES,
St. Louis, August 6th, 1873.

This is to certify that the foregoing are true and correct copies of the original New Madrid certificate, with the accompanying papers attached thereto, which originals are, up to this day, preserved on file in this office.

STILLMAN O. FISH,
Recorder.

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 10. Certified copy of New Madrid certificate No. 271, issued to Francis Langloise, as the same is on file with the United States recorder of land-titles at Saint Louis. Filed Oct. 4, 1873. J. R.

Copy of New Madrid certificate No. 270 to F. Langlois.

No. 270.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, November 24th, 1815.

I certify that a lot of one arpen in the village of Little Prairie, in the county of New Madrid, which appears from the books of this office to be owned by Francis Langlois, (lot No. 100, sq. No. 26,) has been materially injured by earthquakes, and that, in conformity to the provisions the act of Congress of 17th February, 1815, the said Francis Langlois, or his legal representatives, is entitled to locate any quantity of land, not exceeding one hundred and sixty acres, on any of the public lands of the Territory of Missouri the sale of which is authorized by law.

(Signed) FREDERICK BATES.

379 (Endorsement.)

For value received, I sign and set over to Horatio Chriesman, his heirs and assigns, the within certificate, together with all the privileges and appurtenances thereunto belonging or in any wise appertaining, this second day of June, in the year of our Lord one thousand eight hundred and seventeen—1817.

Present.

(Signed) WILLIAM KINCHELOE. [SEAL.]

(Signed) ELIAS BARCROFT.

For value rec'd, I assign and set over to Thos. Rector, his heirs and assigns, the within certificate, together with all the privileges and appurtenances thereunto belonging or in anywise appertaining, this twentieth of October, in the year of our Lord one thousand eight hundred and seventeen.

Attest:

(Signed) HORATIO CHRIESMAN. [SEAL.]

(Signed) WM. RECTOR.

Horatio Chriesman enters for Francis Langlois, or his legal representatives, one hundred and sixty acres of land, by virtue of a certificate from Frederick Bates, recorder of land-titles for the Missouri Territory, which certificate is numbered 270, dated November 24th, 1815, in the following manner, to wit: To include the southwest quarter of section 35, T. 49 north of the base-line, R. No. 17 west of the 5th principal meridian, being north of the Missouri River, in Howard County, Missouri Territory.

St. Louis, June 2nd, 1817.
Class No. 124.
(Signed) HORATIO CHRIESMAN.

(In pencil on margin:)

FRANKLIN, *Feb'y 5th*, 1820.

The following qr. has been granted by right of pre-emption: S. W. qr. of sec. 35, R. 17, T. 49.

CH. CAROLL.
T. A. SMITH, *Rec'r*.

Thomas C. Rector, as the legal representative of Francis Langlois, enters one hundred and sixty acres of land, by virtue of certificate No. 270, (issued on the twenty-fourth day of November, 1815, by Frederick Bates, recorder of land-titles for the Missouri Territory, to said Francis Langlois, a sufferer by earthquakes in the late county of New Madrid,) in such manner as to include the southwest quarter of section No. 33, in township No. 50 north of the base-line, range No. 16 west of the 5th principal meridian, in Howard County, Missouri Territory.

St. Louis, Oct'r 2nd, 1820.

THOMAS C. RECTOR,
By JOHN D. POTEET.

(In pencil on margin:) Withdrawn because the land had been previously located for the legal representatives of Stewart Cummings.

(Endorsement.)

ST. LOUIS, *January 2nd*, 1821.

Received from Wm. Rector, surveyor of the lands of the United States in the States of Illinois and Missouri & Territory of Arkansas, the certificate by virtue of which the within location was made.
(Signed) THOS. C. RECTOR.

ST. LOUIS, *March 14th*, 1821.

Thos. C. Rector enters, as the legal representative of Francis Langlois, one hundred and sixty acres of land, by virtue of a certificate issued by Fred'k Bates, recorder of land-titles, No. 270, dated St. Louis, November 24th, 1815. Said certificate is granted to said Langlois, or his legal representatives, in the following manner, viz: So as to include the vacant land in the north half of section 24, and as much off the north side of the southeast quarter of said sec. 24, T. 44 N., R. 11 W., South Missouri, as will include the quan'ty of 160 acres.
(Signed) THOS. C. RECTOR.

OFFICE OF THE U. S. RECORDER OF LAND-TITLES,
St. Louis, August 6th, 1873.

This is to certify that the foregoing are truly and correctly copied

from the original New Madrid certificate, and the accompanying papers attached thereto, which originals are, up to this day, preserved on file in this office.

STILLMAN O. FISH,
Recorder.

(Indorsed:) No. 6245. United States Court of Claims. Henry M. Rector vs. The United States. No. 11. Certified copy of New Madrid certificate No. 270, issued to Francis Langloise, as the same is on file with the United States recorder of land-titles at Saint Louis. Filed Oct. 4, 1873. J. R.

380 *The deposition of Wilson Stidham, for claimant, taken at Little Rock, Arkansas on the 22d day of December, A. D.* 1873.

First interrogatory by commissioner. Please state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; whether, and in what degree, you are related to the claimant.

Answer. My name is Wilson Stidham; am a hotel-keeper, and am fifty-four years old; resided in Little Rock, Arkansas, for the past year. I have no interest whatever in the claim which is the subject of the present inquiry, nor am I related to any of the claimants.

Being interrogated by Henry M. Rector, the claimant, the witness says:

Interrogatory 2. State whether you ever resided in Hot Springs Valley, Arkansas; when you went there first to reside, and how long did you remain resident of that place.

Answer. I went first to Hot Springs in March, 1850, and made that my home until October, 1863, and returned in 1869 and remained there until November, 1872.

Interrogatory 3. State the business you were employed in at the springs from the year 1850 to 1863.

Answer. I was a saloon-keeper for a time at first, and afterward kept a hotel.

Interrogatory 4. State whether or not you leased property in the Hot Springs Valley from 1851 to 1860, for hotel and saloon purposes; and, if so, state from whom you leased it.

Answer. I rented from Henry M. Rector a hotel and fixtures, from February, 1851, up to 1860.

Interrogatory 5. State, if you know, who has been in possession of the property in the Hot Springs Valley from the time you went there up to 1860, and subsequently.

Answer. Henry M. Rector was in possession of the property I rented, which was in the upper end of the valley. I rented all his possessions there. Hale's possessions were in the central portion of the valley and joined Rector's on the south; and Major Gaines had possession of the southern portion of the valley subsequent to 1851.

Interrogatory 6. State whether Hale and Rector's possessions joined each other; and, if you know, state whether or not there was a division-line existing and always observed between their possessions, known as the Hale and Woods line.

Answer. There was such a line dividing Hale and Rector's possessions in the valley, and was always observed by myself as well as by Hale and Rector, and is so observed up to the present day, as I understand and believe.

Interrogatory 7. State, if you know, the locality of that division-line; where it commenced, and in what direction it ran.

Answer. The line started from the southeast corner of what has been known as the Revere House, and run a northeasterly direction across the road to the main hot spring.

Interrogatory 8. State the relative position of Rector and Hale's possessions from that line.

Answer. Hale's were on the south, and Rector's were on the north of that line.

Interrogatory 9. State, while you occupied that ground as the tenant of Rector, whether you occupied or used any of Hale's possessions at any time.

Answer. I never occupied or used any of Hale's possessions until in 1856, when I rented from Hale in person.

Interrogatory 10. State, if you know or are informed, to the best of your understanding, from whom Rector purchased the possessions and improvements in Hot Spring Valley he rented to you from 1851 to 1860.

(Question objected to by the attorney for the United States as calling for hearsay evidence.)

Answer. I have understood from numerous persons who resided in the valley at the time, that Rector, in 1849, purchased the improvements in the valley he rented to me from Jacob Mitchell.

Interrogatory 11. State, if you know, from that general intelligence and common rumor in the valley, from whom Jacob Mitchell purchased those improvements.

(Question objected to by the attorney for the United States as calling for hearsay evidence.)

Answer. It was the general understanding that Jacob Mitchell purchased those improvements from Milus H. Woods.

Interrogatory 12. State, if you know, from the same source of intelligence, from whom Milus H. Woods purchased those improvements.

(Question objected to by the attorney for the United States, as calling for hearsay testimony.)

Answer. I understood that Milus H. Woods and John C. Hale purchased from the Percifulls, who claimed a pre-emption under the act of 1814 to the hot springs.

Interrogatory 13. State whether or not, when you were occupying property at the hot springs as a tenant of Rector, there was not upon one or two occasions a dispute between yourself, as such tenant, and John C. Hale, as to what ground and waters were Rector's and what were Hale's.

(Question objected to by the attorney for the United States as irrelevant and immaterial.)

Answer. I recollect one dispute that was in regard to a spring, the water of which was running into my bath-house. Hale claimed it, and took possession. He claimed that it was on his side of the division-line, and I claimed that it was on Rector's side.

Interrogatory 14. State whether or not from the time you became a tenant there, in 1851, up to the time you left the valley, in 1872, the possessions of Rector and Hale were not entirely separate and distinct from each other; and if they were so distinct, whether they were not separated expressly by the division-line known as the Hale and Woods line.

Answer. I have always understood that they were separate and distinct, and that was the division-line.

Being cross-examined by the attorney for the United States, the witness says:

Cross-interrogatory 1. Do you know anything, of your own knowledge, of the conveyance by Jacob Mitchell to Henry M. Rector of the possessions in the Hot Springs Valley, to which you testify in your examination-in-chief?

Answer. I do not.

Cross-interrogatory 2. Is not your whole knowledge and information on that point derived from hearsay and rumor?

Answer. It is.

Cross-interrogatory 3. Do you know, of your own personal knowledge, anything of the conveyance by Milus H. Woods to Jacob Mitchell, referred to in your direct examination?

Answer. I do not.

381 Cross-interrogatory 4. Is not your whole information in regard to that conveyance derived from rumor?

Answer. It is.

Cross-interrogatory 5. Is not the whole of your knowledge and information respecting the transfer and assignment of interests in the Hot Springs Valley to Milus H. Woods, or to John C. Hale and Milus H. Woods, by the Percifulls, their heirs, or either of them, derived wholly from hearsay and rumor?

Answer. Yes.

Cross-interrogatory 6. Do you know whether the alleged conveyance to Woods and Hale, or either of them, was made by John Percifull, or Sarah Percifull, his pretended wife, or his or her heirs, or either of them?

Answer. I do not know.

Re-examined by Henry M. Rector for self:

Interrogatory 1. You state in your cross-examination that the evidence you have given in your examination-in-chief, in reference to the conveyances, is derived from hearsay and rumor. State whether that hearsay and rumor did or did not amount to general intelligence and common report when you were living in the Hot Springs Valley.

(Question objected to by the attorney for the United States as being irrelevant and immaterial.)

Answer. It did.

Interrogatory 2. State whether or not you ever heard the propositions disputed that some of the Percifulls had conveyed an interest, or pretended interest, to the Hot Springs to Milus H. Woods and John C. Hale, and that Woods had conveyed to Jacob Mitchell his interest, and that Mitchell had conveyed to Rector his improvements and interest at the springs.

(Question objected to by the attorney for the United States as being irrelevant and immaterial, and as calling for hearsay and secondary evidence.)

Answer. I never heard any one dispute the proposition.

Being interrogated by Wm. H. Gaines on behalf of himself and heirs of Belding:

Interrogatory 1. State, if you know, whether I brought suits of ejectment against all the parties for the property in dispute in the Hot Springs Valley, and at what time, for myself and for the Belding heirs.

(Question objected to by the attorney for the United States as being irrelevant.)

Answer. I know you did.

Interrogatory 2. State, if you know, whether I obtained judgments for myself and for the Belding heirs.

(Objected to by the attorney for the United States as being irrelevant and calling for secondary evidence.)

Answer. You did.

Interrogatory 3. State, if you know, whether Hale and Rector took appeals, and whether the judgments were affirmed by the supreme court of Arkansas.

(Question objected to by the attorney for the United States as being irrelevant and calling for secondary evidence.)

Answer. They did take appeals, and I understood that the judgments were affimed by the supreme court of Arkansas.

Interrogatory 4. State, if you know, whether Rector and Hale appealed to the Supreme Court of the United States, and whether the judgments were affirmed or not.

(Question objected to by the attorney for the United States as being irrelevant, and calling for secondary evidence.)

Answer. I do not know.

Interrogatory 5. State, if you know, how much possessions and improvements in the Hot Springs Valley I purchased from Abigail Sabin,

(Question objected to by Henry M. Rector generally.)

Answer. All that portion where you now live down Hot Spring Creek to the quarter-section in dispute, thence east to the corner of the next quarter-section up to the road leading from Gaines's mill to Hot Springs.

Interrogatory 6. State, if you know, the total amount of possessions I now have in the Hot Springs Valley.

Answer. Not over a third.

(Question objected to by Henry M. Rector as being irrelevant and immaterial.)

Interrogatory 7. State, if you know, how many acres Henry M. Rector is in possession of the hot springs quarter-section.

(Question objected to by Henry M. Rector as being immaterial and irrelevant.)

Answer. I do not think over a fourth.

Direct examination resumed by Henry M. Rector:

Interrogatory 1. State, if you know, how Abigail Sabin derived possession of that property? Was she a squatter merely, or did she claim title as against the United States?

Answer. She was there as a squatter, and had no claim as against the United States.

Second general question by commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not, except that Henry M. Rector has possession of other grounds within the bounds of the New Madrid location and outside of the quarter-section I have referred to.

WILSON STIDHAM.

Subscribed and sworn to before me December 22, 1873.

HENRY C. CALDWELL,
United States District Judge, Eastern District Arkansas.

The deposition of Ann B. Rapley, for claimant, taken at Little Rock, Arkansas, on the 23d day of December, A. D. 1873.

General-interrogatory 1. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any

interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Ann B. Rapley; occupation, lady; am fifty-three years old; have resided in Little Rock for the past year. I have no interest whatever in the claim in question. I am not related to any of the claimants except to Mr. Rector, and to him only by marriage. Mr. Rector's first wife was my sister, Jane Elizabeth Field.

Being interrogated by Henry M. Rector, the claimant, the witness says:

382 Interrogatory 2. State whether or not you know Henry M. Rector, who is a party to this suit; how long have you known him; and, if you know, state where he resided in the winter of 1842 and 1843.

Answer. I have known Mr. Rector since 1839. In the winter of 1842 and 1843 he resided in the vicinity of Little Rock.

Interrogatory 3. State, if you know, whether or not Mr. Rector, in the spring or summer of 1843, moved from Little Rock to the hot springs, in Arkansas, with his family.

Answer. He did.

Interrogatory 4. State, if you know, how long Mr. Rector remained at the springs, and whether or not, if you know, he removed back with his family to Little Rock in the fall or winter of 1843?

Answer. Mr. Rector remained at the springs six or seven months, and moved back with his family to Little Rock in the fall or in the winter of 1843.

Interrogatory 5. State, if you know, whether or not Henry M. Rector, one of the parties to this suit, did or did not about the year 1843 receive the appointment of United States marshal for the district of Arkansas, or, at least, whether within your knowledge he did not about that period act in that capacity.

(Question objected to by the attorney for the United States as being irrelevant, and immaterial, and leading.)

Answer. To the best of my recollection, he so acted in that capacity.

Interrogatory 6. State, if you recollect, where Henry M. Rector resided from the time he removed back to Little Rock from the Hot Springs, in 1843, up to the year 1865.

Answer. He resided part of the time in Saline County and in Pulaski County, Ark., and the remainder of the time in Little Rock and vicinity.

General interrogatory 2. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know nothing except what I have here stated.

ANN B. RAPLEY.

Direct examination resumed:

Interrogatory 1. State whether you knew Frances B. Trigg, the mother of Henry M. Rector, one of the parties to this suit.

Answer. I knew her.

Interrogatory 2. State at what time, if you recollect, Mrs. Trigg became a resident and citizen of the State of Arkansas.

Answer. It was in the year 1846.

Interrogatory 3. State, if you know, from what State Mrs. Trigg removed when she came to the State of Arkansas in 1846.

(Objected to by the attorney of the United States as being irrelevant and immaterial.)

Answer. She came from the State of Missouri.

Interrogatory 4. State, if you know, whether Mrs. Trigg still survives or is deceased; and, if deceased, state when and where she died.

Answer. She is deceased. She died at my house, near Little Rock, in 1853.

Interrogatory 5. State, to the best of your knowledge and belief, whether Henry M. Rector, one of the parties to this suit, was at the time of Mrs. Trigg's death, in 1853, the only surviving child born of her first husband, Elias Rector?

Answer. He was.

Second general interrogatory by commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I have stated all I know.

ANN B. RAPLEY.

Subscribed to and sworn before me this 23d December, 1873.

HENRY C. CALDWELL,
United States District Judge, Eastern District Arkansas.

The deposition of Joseph Hopson, for claimant, taken at Little Rock, Arkansas, on the 24th day of December, A. D. 1873.

First general interrogatory by commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Joseph Hopson; am a barber, and am nearly fifty years old; have lived in Little Rock, Arkansas, for the past year. I have no interest whatever in the claim in question; am not related to the claimant.

Being interrogated by Henry M. Rector, the claimant, the witness says:

Interrogatory 2. State whether you were ever at the hot springs in Arkansas. If so, in what year were you first there?

Answer. I was at the hot springs in Arkansas. It must have been over twenty years ago when I was first there.

Interrogatory 3. State whether or not you were there in the year 1843.

Answer. Yes; I was there.

Interrogatory 4. State in what capacity you were acting in *in* the year 1843, while at the springs.

Answer. I went there with Mr. Lewis as his servant.

Interrogatory 5. State, as near as you can, what month in the year 1843 you went to the hot springs.

Answer. It was in March or April, as near as I can recollect.

Interrogatory 6. State, if you recollect, whether, in that spring of 1843 Henry M. Rector, one of the parties to this suit, moved to the hot springs with his family.

Answer. He did.

Interrogatory 7. State, if you recollect, in what part of the valley and in whose houses or buildings your employer, Mr. Eli Lewis, lived during that summer of 1843.

Answer. He lived in rooms belonging to John C. Hale, near where Walsh's saloon now stands.

Interrogatory 8. State, if you recollect, whether Henry M. Rector, in conjunction with John C. Hale, during the summer of 1843, kept Mi

Hale's tavern-house as a hotel for the accomodation of boarders at the springs.

Answer. He did.

Interrogatory 9. State, if you recollect, whether or not Henry M. Rector, with his family, in that fall of 1843, moved back from the hot springs to Little Rock, Arkansas.

383 Answer. He did.

Interrogatory 10. State, if you know, in whose possession the buildings and improvements occupied and managed by Rector and Hale, during the summer of 1843, as a public house, &c., were left after Mr. Rector left the valley.

Answer. They were left in the possession of Mr. John C. Hale.

Interrogatory 11. State, if you can recollect, how often and in what years you have been at the Hot Springs since that year 1843.

Answer. I was there in 1843, in 1844, 1845, and staid there most of the time. Subsequently to that time, up to the year 1860, I was there very frequently. I do not recollect the particular years, but I think it was almost every year. I was there in the year 1872; remained there several months, and rented a barber-shop from Mr. Henry M. Rector, one of the parties to this suit.

Interrogatory 12. State, if you recollect, whether or not, in the year 1843, there was a gentleman who occupied grounds and improvements in Hot Springs Valley, whose improvements and possessions stood above or north of Mr. John C. Hale's possessions; and if there was such a person, state his name.

Answer. There was a gentleman there by the name of Mr. Milus H. Woods, who had improvements and possessions of that kind in that locality.

Interrogatory 13. State, to the best of your knowledge and recollection, from the time Mr. Henry M. Rector left the valley, in the fall of 1843, up to the time you were last in the valley, in the year 1872, who had control and possession of the ground and improvements standing thereon which were used and occupied by Mr. Rector and Mr. Hale together, in the summer of 1843.

Answer. Mr. John C. Hale, who is also a party to this suit.

Interrogatory 14. State whether or not the possessions of Mr. Rector in the summer of 1872, in the Hot Springs Valley, were not the same grounds and possessions that were held and occupied by Mr. Milus H. Woods in the year 1843.

Answer. They are the same.

Being interrogated by William G. Whipple, attorney for the United States, the witness says:

Interrogatory 1. How long have you resided in Little Rock?

Answer. I have been here off and on since the year 1839.

Interrogatory 2. What is your nationality?

Answer. I am a negro.

Interrogatory 3. Can you read and write?

Answer. I can.

Interrogatory 4. Were you formerly a slave?

Answer. No, sir; I was free born. My mother was a slave, but was free when I was born.

Interrogatory 5. How much of your time since the year 1839 have you spent at the Hot Springs?

Answer. I can't tell exactly; I have been there off and on during the whole period, and lived there a good deal of the time.

Interrogatory 6. Do you know that Governor Henry M. Rector has been in continual possession of a portion of the hot springs since the year 1843?

Answer. I know that he had possession in 1843. Some time after that year he rented out to Mr. Stidham and Warren, and then he took possession himself; and when I left there, in 1872, he had possession.

Re-examined by Henry M. Rector, the claimant:

Interrogatory 1. State whether that possession Mr. Rector had in 1843, which you allude to, was a possession in conjunction with John C. Hale and of Hale's part of the property.

Answer. It was the Hale property that Mr. Rector had possession of in 1843.

Interrogatory 2. State whether that property which Mr. Rector rented to Stidham and Warren subsequently was not the property occupied by Woods in 1843.

Answer. It was the same.

Recross-examined by Wm. G. Whipple, for the United States:

Cross-interrogatory 1. When was Henry M. Rector first in possession of any portion of the hot springs to your knowledge?

Answer. In 1843, to the best of my knowledge.

Cross-interrogatory 2. Do you say that he was then in possession only of property at the hot springs which is now the property of John C. Hale?

Answer. I don't know.

Cross-interrogatory 3. Do you know that Governor Rector was in possession of any other property at the Hot Springs at that time?

Answer. I don't know.

Cross-interrogatory 4. Do you know when Governor Rector first came into possession of that portion of the Hot Springs Valley which he now occupies?

Answer. I don't know.

Cross-interrogatory 5. When did you know him first to be in possession of what he now occupies in the Hot Springs Valley?

Answer. I don't know. I have told you so time and again.

Second general interrogatory by commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know nothing further than what I have here stated.

J. HOPSON.

Subscribed and sworn to before me this 24th December, 1873.

HENRY C. CALDWELL.

The deposition of Elias W. Rector, for claimant, taken at Little Rock, Arkansas, on the 26th day of December, A. D. 1873.

First general interrogatory. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Elias W. Rector; am a lawyer; am twenty-four years of age; and for the past year have resided at the Hot Springs until recently, when I have resided in Little Rock. I have, I suppose, an indirect interest in the claim in question. I am the son of Henry M. Rector, one of the claimants, and have no further interest than that.

Being interrogated by Henry M. Rector, the claimant, the witness says:

Interrogatory 2. State whether you were ever at the Hot Springs
384 in Arkansas; and, if so, state to the best of your recollection how long since you were first at the place.

Answer. I have been there a great number of times. The first time I remember of being there was in 1858 or 1859. I was last there about the 15th of November, 1873.

Interrogatory 3. Have you or not made Hot Springs your home most of the time since about the year 1866 or 1867?

Answer. I have.

Interrogatory 4. State, if you recollect, whether or not when you first went to the springs, about the year 1858 or 1859, one of the claimants to this suit, Mr. John C. Hale, occupied and possessed certain grounds and improvements in Hot Springs Valley. If so, state in what portion of the valley his possessions were at the time.

Answer. I remember that Mr. John C. Hale occupied a considerable number of houses at the springs in the years 1858 and 1859, both bath and tenement houses. His possessions were confined, according to my recollection, to the middle portion of the valley.

Interrogatory 5. State, if you recollect, whether or not in those years 1858 and 1859 there were or were not other houses, grounds, and improvements, other and north of Hale's, which were occupied and controlled by other parties than Hale.

Answer. I remember very distinctly that there were both bath-houses and tenement-houses occupied by parties other than Hale and north of his possessions in the valley.

Interrogatory 6. State, if you know, who occupied and controlled those houses, &c., you speak of at that time north of Hale's.

Answer. They were occupied and controlled by Henry M. Rector, senior, one of the parties to this suit; or, rather, they were controlled by Henry M. Rector, senior, but were occupied by Stidham and Akin, Rector's tenants.

Interrogatory 7. State, to the best of your knowledge and recollection, from the time you were first in the valley to the present period, whether the possessions of Hale have not rémained during the whole time you have known the place in the same locality as they were originally and as they are now.

(Question objected to by the attorney for the United States as being leading.)

Answer. They have always been the same as they are at the present time.

Interrogatory 8. State whether or not *whether* those buildings and grounds that you speak of, as being in possession of Stidham and others in 1858 and 1859, have or have not been in the possession and control of Henry M. Rector and those who represent him from that period, 1858 or 1859, to the present time.

(Question objected to by the attorney for the United States as being leading.)

Answer. The grounds have been in the possession and control of Henry M. Rector, but the buildings there in the years 1858 and 1859 have been destroyed by fire; but the buildings erected since on the same grounds are in his possession and under his control. In 1863 we left the valley. When I again saw the valley, in 1866, all the buildings had been destroyed. The understanding and belief was that the buildings had been burned by bushwhackers.

Interrogatory 9. State, to the best of your knowledge, whether or not there is a division-line known and recognized by both Hale and Rector which separates distinctly their possessions in the Hot Springs Valley.

Answer. There is such a line.

Interrogatory 10. State, if you know, relatively, from that line how the possessions of Hale are situated, whether north or south of it; and how the possessions of Rector are situated, whether north or south of it.

Answer. The possessions of Hale are all south of that line, and those of Rector are north of it.

Interrogatory 11. Have or have not the possessions of Rector and Hale, since you have known the place, always been distinct and separate from each other, and were they or not always separated by the line you speak of?

Answer. They have always been distinct and separate from each other, and been separated by that line, according to my knowledge and belief. I did not know that there was such a line until the year 1866, but I supposed the possessions must have been regulated by such a line, as Hale's possessions commence immediately south and Rector's immediately north of it, since I can first remember.

Interrogatory 12. You state in your last answer that you did not know of that line until the year 1866. How came you to learn of it then; and why did you not know of it before?

Answer. In 1866 and 1867 my brother was out there as trustee, renting out property, and he and myself, also John C. Hale, had conversations about that line, and I have been upon the ground, and was shown the line by both my brother and by George G. Hale, son of John C. Hale. The reason I did not know of this line prior to the year 1866 was because I was very young, and paid no attention to such things, and was seldom there.

Being cross-examined by William G. Whipple, attorney for the United States, the witness says:

Cross-interrogatory 1. Has not Henry M. Rector been in possession of portions of what are now the possessions of John C. Hale, either alone or jointly with Hale, of parts of the valley south of the division-line?

Answer. Henry M. Rector has never been in possession of that portion of the valley now in the possession of John C. Hale, either singly or jointly with Hale, since I can remember.

Cross-interrogatory 2. Did you see the Hot Springs Valley after the buildings were burned and before they were rebuilt?

Answer. When I first saw the springs after the war all the buildings in Rector's division of the valley were burned down, except a collection of shanties known as Tennessee, on the east side of the creek, where the Rector House now stands, and a few feet north of what is known as the arsenic spring.

Cross-interrogatory 3. What was left then of Hale's portion of the valley?

Answer. As well as I remember, there was nothing but Dick Warren's residence, John C. Hale's residence, a double log cabin, and Hale's old stables.

Cross-interrogatory 4. What was there left of Gaines's portion in the valley?

Answer. His residence situate on the east side of the creek at the lower end of the valley.

Second general interrogatory. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I do not know anything else particularly about the
385 claim, except that, in the year 1867, I carried the chain for Caleb Langtree, who is a surveyor, and was at that time running out the lines of what purported to be the Conway survey of the New Madrid location. We found the lines of the survey, and the southwest corner of the survey, indicated by a large pine tree as the corner tree. We failed to find the other corner trees, as they had been destroyed, it was supposed, by fire or other casualty. In measuring the lines to the creeks, the courses and distances corresponded with the notes of the Conway survey.

E. W. RECTOR.

Subscribed and sworn to before me this 26th December, A. D. 1873.
HENRY C. CALDWELL.

Mr. Sanborn, to prove the death of Ignatius Willamoncz and other witnesses, offers the testimony of ROBERT W. JOHNSON, who, being sworn, deposes and says:

I knew following witnesses: Ignatius Willamoncz, who is dead; has been dead a long time. John R. Conway is dead. R. A. Calloway is dead. Geo. A. Warthen is dead.

HENRY M. RECTOR, being recalled and resworn, deposes and says:

My brother and sister lived on Lindell Market. William died in the fall of 1822. Sidney died in 1823. I was born May 1, 1816. Ber-
386 nard Bonne is dead. He was about sixty-two when he testified in 1850 or 1851 before the register and receiver.

To the COURT. Last heard of him alive in '52 or '53; think he died in 1856. I think he has been dead 15 or 20 years—15 at least.

387 The following evidence was received and filed in the Court of Claims of the United States, and was, upon the trial of these consolidated cases, read by Mr. Joseph Casey as counsel in behalf of the claim of George Mackay and William W. Gitt, (from page 387 to page 422 of this record:)

A No. 1. *Langlois to Michel.—Copy of record from recorder's office, St. Louis.*

35th claim.

Moy, F'ois Lesieur, en vertu d'un office que j'ai reçu de M^r. H. Peyroux, com'd'r civil & militaire du d'ct de la N'lle Madrid, je certifie que j'ay accordé au Sr. Antoine Poirier 200 a. de terre, situé' sur la Rivière Gayoso, entre le village de la Petite Prairie & les habitations de la Rre. St. François, approuvé par moi François Lesieur, lieut. de milice de S. M. C. & représantant de M. Henry Peyroux, en ce poste de la Petite Prairie le 12 déc'e 1801.

(Signé) FRAN'S LESIEUR.

"Nous soussigné, comd't civil du d'ct de la N'lle Madrid, certifions que la copie cy dessus est conforme à l'original, déposé dans les archives de cette com'andance, par le S'r Antoine Poirier, pour se conformer à la proclamation de M^r. le premier commandant civil de cette Haute Louisiana. En foi de quoi nous avons signé àl a Nouvelle Madrid le 10 juin de 1804."

(Signed) PIERRE ANTOINE LAFORGE,
Command't Civil.

A. No. 2.—*Deed.—Pourier to Langlois.*

This indenture, made this 8th day of June, in the year of our Lord 1805, by & between A. Pourier, of the d'ct of New Madrid, in Louisiana, of the one part, & Francis Langlois, of the same place, on the other part, witnesseth that for & in consideration of the sum of $200 to him, the said Antoine Poirier, paid, at & before the ensealing & delivery of these presents, the receipt whereof is hereby acknowledged, & the said F. Langlois, his heirs and assigns, forever discharged, exonerated, & acquitted, the said Antoine Poirier have granted, bargained, alien'd, released, conveyed, & confirmed, and by these presents do bargain, sell, alien, release, convey, & confirm to the said François Langlois, his heirs & assigns forever, all that tract of lands, tenement, & hereditament after specified, lying, being, & situated in the d'ct aforesaid, amounting to 200 a. of land, fronting on the river Gayoso, joining on one side to the land of J. Bte. Hebert, & on the other side to land to Louis Tirart, which said 200 a. of land was granted to Antoine Poirier by Mr. François Lesieur, with authority of M. Henry Peyroux, as it appears at the office of record of this above-said d'ct, which plantation or tract of 200 a. of land, together with all the improvements, house thereon belonging, or in anywise appertaining, & all the estate, right, title, & interest of him the said A. Poirier, of his & to the said 200 a. of land & premises hereby bargained & sold to him, the said F. Langlois, his heirs and assigns forever. Moreover, the said Antoine Poirier do' hereby covenant & agree for himself & his heirs, to & with the said Francis Langlois, his heirs & assigns, that they will warrant & defend the above-said 200 a. of land & premises, or any part thereof, against all & sundry the claim or claims of all & every person or persons whomsoever, and the said Antoine Poirier gives full power to the said François Langlois to nominate and appoint him his atty., & in his name to use all lawful ways and means to obtain ample and complete title, & to do all & every part of the above-said 200 a. of land & premises, promising and engaging to ratify & confirm with themselves as their atty. aforesaid could do or cause to be done in the matter above mentioned. In witness of all which the said Anthony Poirier have hereunto set his hand and seal the day & year above mentioned.

(Signed) ANT. his + mark. POIRIER. [SEAL.]

In the presence of—
PIERRE NOBLESSE.
ALEXANDER SAMPSON.
RAPAEL LESIEUR.

NEW MADRID DISTRICT,
Township of Little Prairie :

On the 8 day of June, in the year of our Lord 1805, received of the above & within-mentioned François Langlois the sum of $200, the consideration-money mentioned in this instrument of writing.

(Sig.) ANT'ONY his + mark. POIRIER.

In presence of us—
PETER NOBLESSE.
ALEXANDER SAMPSON.
RAPPAEL LESIEUR.

LOUISIANA, NEW MADRID D'CT,
Township of Little Prairie, to wit:

Be it remembered that on the 8th day of June, A. D. 1805, personally appeared before me, the undersigned, one of the justices of common pleas for the d'ct aforesaid, the within-named Anthony Poirier, and acknowledged the within instrument of writing to be his act *of* deed, & the lands & premises therein conveyed, or intended to be conveyed, to be the right & estate of the within-named François Langlois, his heirs & assigns forever. Acknowledged & described before me, date above.

(Signed) FRANÇOIS LESIEUR. [SEAL.]

Agreement.—Langlois and Joseph Michel.

NOTE.—This original instrument was offered by Mr. Casey as establishing its own authority, and it was admitted and read in evidence.

Attest:
J. RANDOLPH,
Asst. C. C. of C.

LOUISIANA, *District of New Madrid, to wit:*

Memorandum of an agreement made this eighth day of April, in the year of our Lord one thousand eight hundred and five, before the witness underwritten—was present François Langlois, inhabitant of the district aforesaid, and Mr. Joseph Michel, merchant of the same—witnesseth, thatthe said François Langlois, sr., has been paid by me, Joseph Michel, for his improvements right on Bayou St. John, containing the quantity of two hundred arpents, the sum of two hundred dollars good and lawful money, and hereby binds himself, his heirs, in consideration of the said two hundred dollars, to execute any further conveyance of the said premises with the buildings and property thereunto belonging, whenever called upon or requested so to do, to him the said Joseph Michel and his heirs and assigns forever. And the said Joseph Michel is to pay all expenses and trouble in obtaining any conformation before the board of commissioners of land-claims that may arrise concerning the title of or to the said plantation.

In witness whereof the said parties to these presents have here-
388 unto set their hands and seals affixed at New Madrid the day, date, and year above written.

his
FRANÇOIS + LANGLOIS, SR. [SEAL.]
mark.

his
JOSEPH + MICHEL. [SEAL.]
mark.

Signed and executed in the presence of us—
B. OLIVE.
JOSEPH CHARPANTIER.

NEW MADRID DISTRICT, *to wit:*

On the eighth day of April, A. D. 1805, personally appeared the within-mentioned François Langlois and Joseph Michel, and acknowledged the within instrument of writing to be their own acts and deed, and the plantation and premises therein conveyed, or intended to be con-

veyed, to be the rights and estate of the above and within named Joseph Michel, his heirs & assigns forever.

Acknowledged and subscribed before me the date above written.

B. OLIVE, *J. P.*

(Indorsed:) A No. 2½. Memorandum between François Langlois, sr., and Joseph Michel. 6244. McKay and Gitt vs. The United States. Filed Oct. 6, 1874. J. R.

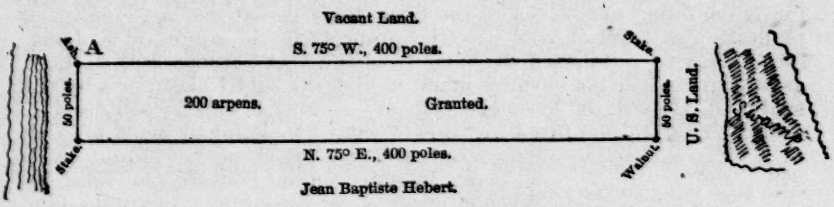
A No. 3.—*Deed.—Assignment.—F. Langlois to Joseph Michel.*

I, François Langlois, in the presence of the witness undersigned, do assigne over all my claims and rights of the within-mentioned sale or conveyance unto M. J. Michel, his heirs or assigns, forever, in conformity of an indent*ence* & conveyance that I have made this day to the said J. Michel of sundry tracts of land, of which the within-mentioned tract makes a part. New Madrid, the 27th day of July, 1805.

(Signed) FRANÇOIS his + mark LANGLOIS.

Signed, sealed, & delivered in the presence of—
JOSEPH CHARPENTIER.
PIERRE ANTOINE LAFORGE.
BTE. OLIVE.

NOTE.—This land is situated on Lake Gayoso, and about 4¾ miles southwards from the village of the Little Prairie.



I do certify that the above plan represents 200 a. of land, situated in the d'ct of New Madrid, and surveyed by me at the request of J. Michel, who claims the same as a Spanish grant by virtue of the 2d section of the act of Congress respecting such claims, & passed on the 2d day of March last.

Given under my hand at New Madrid the 10th day of February, 1806.

(Signed) M. AMOUREUX,
Dy. Sur. N. M. D'ct.

Received for record, St. Louis, the 27th of February, 1806.

(Signed) ANTOINE SOULARD,
Sur. Genl. Ty. Louisiana.

EXHIBIT A, NO. 4.—*Deed.—Langlois to Michel.*

This indent*ence* made this 27th *May* of July, in the year of our Lord 1805, by & between F. Langlois, of the d'ct of New Madrid, in the Territ'y of Louisiana, & Barbe, his wife, of the one part, and Joseph

Michel, of the same place, of the other part, witnesseth, that for & in consideration of $1,270 to him the said François Langlois in hand paid & secured to be paid, at & before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, and the said J. Michel, his heirs and assigns, forever discharged, exonerated, & acquitted, he, the said François Langlois, & Barbe his wife, have granted, bargained, sold, aliened, released, conveyed, & confirmed, & do hereby grant, bargain, sell, alien, release, convey, & confirm to the said J. Michel, his heirs and assigns forever, all & every part or parcel of the landed property hereafter specified & mentioned, to wit:

1st. All that plantation or tract of land, lying, being, & situated in the d'ct above mentioned, consisting of 250 a. of land, fronting on the Go. Marais on the S. side, being bounded on one side by the plantation of John Hudgens, & on the other side by the plantation belonging to Peter Poirier, about 6 miles from Little Prairie, in the d'ct aforesaid, which plantation or tract of land belonging to the said F. Langlois, as having been granted to him by Mr. F. Lesieur in virtue of an official order from D. H. Peyroux, formerly comd. for his C. M. of the d'ct of New Madrid aforesaid, as appears at the records of this aforesaid d'ct.

2dly. All that plantation or tract of land, consisting of 200 a. of land, also situated in the d'ct aforementioned, fronting on the River Gayoso, about 3 miles from the village of the Little Prairie aforesaid, being bounded on one side by the land of Antony Poirier, & on the other side by the land of Alex. Samson, which plantation or tract of land was granted to J. Bte. Hebert (commonly called Fournier) by M. F. Lesieur, in virtue of the order above mentioned from the above-named Dr. Henry Peyroux, which said order was a general one, directed to the said F. Lesieur, empowering him to give lands to the persons who should apply for & conform themselves to the laws, &c. The above last-mentioned plantation or tract of land was the property of the aforesaid F. Langlois, as having purchased the same from the above-named J. B. Hebert, as appears by the conveyance made to him, the said F. Langlois, by the said J. B. Hebert, dated on the 10th day of May of this present year.

3dly. All that plantation or tract of land, consisting of 300 a. of land, also situated in the d'ct aforesaid, fronting on the Go. Marais afore-
389 said on the S. side, being bounded on one side by the land belonging to Benj. Vernonburgh & on the other side by the land belonging to the said Fr. Langlois, being about 6 miles N. from the Little Prairie aforesaid, which said 300 a. of land makes a part of the tract of 400 a. granted to John Hugens by the said F. Lesieur, in virtue of the order from the said H. Peyroux, above mentioned, and the above 1° plantation or tract of land was the property of the above said François Langlois, as having purchased the same from the said John Hudgens, as appears by the conveyance made to him, the said F. Langlois, by the said J. Hudgens, dated on the 10th of May of this present year.

4thly. All that plantation or tract of land consisting of 120 a. of land fronting on the village of the Little Prairie aforesaid, in the d'ct aforesaid, being bounded on one side by the land of J. Genereux, & on the other side by the land of Charles Lógnion, which plantation of 120 a. of land makes a part of the grant of 250 a. granted to Peter Poirier by the above-said François Lesieur, & in virtue of the order above mentioned the above-said plantation was the property of the said François (wrong in virtue) Langlois as having purchased the same from the said Peter Poirier, as appears by the conveyance, made to him by the above said Peter Poirier, dated the 10th day of June of this present year.

5thly. All that plantation or tract of land, consisting of 200 arp's of

land, also situated in the d'ct aforesaid, fronting on the river Gayaso, being bounded on one side by the land of J. B. Hebert, & on the other side by the land of Louis Tirart, which last above-mentioned plantation of 200 a. of land was granted to Anthony Poirier by the last above-named F. Lesieur, in virtue of the order above mentioned, which plantation or tract of land last mentioned was the property of the said F. Langlois, as having purchased the same from the said A. Poirier, as appears from the conveyance made to him, the said F. Langlois, by the said A. Poirier, dated on the 8th day of June of this present year.

6thly. All that plantation or tract of land, consisting of 200 a. of land, also situated in the d'ct aforesaid, fronting on a small bayou about 3 a. from the Mississippi River, and about 5 a. from the land granted to Geo. Ruddel, and on the 2 other sides being by vacant land, & having 6 a. in front, which plantation of 200 a. of land was granted to Alex. Frazer by the above-mentioned Henry Peyroux, formerly comd't of this aforesaid d'ct, on the 16th day of March, 1802, as appears by the said grant, signed by the said H. Peyroux, which plantation of 200 a. of land was the property of the said F. Langlois, as having purchased the same from the said Alex Frazer, as appears by the conveyance made to him the said F. Langlois by the said Alex. Frazer, bearing date the 18th day of March of this present year, which six above-described plantations or tracts of land, amounting in the whole to 1,270 a. of land, now sold, the said F. Langlois and Barbe, his wife, do hereby convey the same, with all the improvements, buildings, houses, fences, trees, & other appurtenances, to all & every one of the said plantations or tracts of land above mentioned, with all the estate, right, title, and interest of the said F. Langlois, of, in, & to the premises, to have & to hold the said 1,270 a. of land & premises hereby bargained and sold to him, the said J. Michel, his heirs and assigns forever. Moreover the said Frs. Langlois and Barbé, his wife, do hereby covenant for themselves, & their heirs, to & with the said J. Michel, his heirs & assigns, that they will warrant & defend the said 1,270 a. of land & premises against all & sundry the claim or claims of all & every person or persons whomsoever, and from this moment give free & peaceable possession of the aforesaid land & premises to the said J. Michel, his heirs & assigns forever, & also do hereby nominate & appoint him & his aforesaids for him & themselves & in their names and as their atty. to use all lawfull ways & means to obtain ample & complete titles to all & every part & parcel of the aforesaid 1,270 a. of land & premises, promissing & engaging to ratify & confirm whatever he, as their atty. aforesaid, may do or cause to be done in the matter before mentioned. In witness of all which, the said Francis Langlois & Barbe, his wife, have hereunto set their hands & seals the date first above mentioned.

(Signed) FRANÇOIS his + mark. LANGLOIS. [SEAL.]

BARBE her + mark. LANGLNIS. [SEAL.]

Signed, sealed, & delivered in the presence of—
JOSEPH CHARPENTIER.
P. A. LAFORGE.
B. OLIVE.

Rec'd on the day of the date first above mentioned, from the above-

named J. Michel, the above 1,270$, being the full consideration-money above mentioned.

his
FRANÇOIS + LANGLOIS.
mark.

Witness—
JOSEPH CHARPENTIER.
PIERRE ANTOINE LAFORGE.

TERRITORY OF LOUISIANA,
D'ct of New Madrid:

On the 27th day of July, A. D. 1805, personally appeared before me the subscriber, one of the justices of the common pleas of the d't of New Madrid aforesaid, the within-mentioned François Langlois, & acknowledged the within indenture of bargain & sale to be his act & deed, & the land & appartenances mentioned, to be bargained & sold by virtue thereof, to be the right & property of the within-mentioned J. Michel, his heirs and assigns forever. At the same time appeared Barbe, wife of the above & within named F. Langlois, and who being privately examined apart from her said husband did also acknowledge it to be her act & deed, & further declares that she renounces all the right of dower or other claims to said land & premises, & also that she has done and now does the same freely & voluntarily, without any fear or threats from her said husband, or for fear of his displeasure.

Acknowledged & subscribed before me, date above.

(Signed) B. OLIVE, [SEAL.]
J. C. of C. P.

OFFICE OF THE U. ST. RECORDER OF LAND-TITLES,
St. Louis, 1st June, 1870.

This is to certify that the foregoing is truly and correctly copied from pages 509, 510, 511 of record-book A, which record-book is on file in this office.

ALBERT SIGEL,
U. States Recorder of Land-Titles for the State of Missouri.

[5-ct. int. rev. stamp cancelled.]

(Indorsed:) Deede between A. Poirer and François Langlois, and between Francois Langlois and wife and Joseph Michels. Fee $12.00.

390 *Application of Francis Langlois for certificate.*

Cotte G. No. 1. Señor intendte. Geñl. Francisco Langlois, creole de los Ilinois y habitante de este puesto de Nuevo Madrid, con el major respeto a V. Sa. expone que descando establescere dos cientos arpanes de tierra a distancia de tres leguas de esta puesto en el sitio llamado et Bayou Sn. Juan, lindando por su trente ppal. el enunciada Bayou por distras a un camino Real por un lado a la tierrá de Juan Bte. Langlois, y por el otro a las del Dominio Real; cuya gracia espera merecer de sa grande benevolancia y coaseida justicia.

En el Nuevo Madrid, a veinte de Septiembre de mil ochocientos.

firma
FRANCISCO + LANGLOIS.
de

Amego del suplicante por no saver firmar Pedro A. Laforge concu-

ricado en el suplicante las circumstancias que previene la instruccion le hallo digno de la gracia que solicita a Vo. Sa. hara lo que halle por censciente en el Nuevo Madrid, a 24 de Septiembre de 1800.

HENRY PEYROUX.

OFFICE OF U. ST. RECORDER OF LAND TITLES,
St. Louis, 2d June, 1870.

This is to certify that the foregoing application and recommendation for a concession is correctly copied from page 155 of record-book E, which record-book E is on file in this office.

ALBERT SIGEL,
U. St. Recorder of Land-Titles for the State of Missouri.

[5-ct. int. rev. stamp canceled.]

EXHIBIT B.—*Will of J. Michel.* 1810.

On the ninth day of April, one thousand eight hundred and ten, the following last will and testament was recorded in the following words, to wit:

Au nom du Père et du Fils et du Saint-Esprit, ainsi soit-il. Dans le district de la Nouvelle-Madrid, territoire de la Louisiane, en présence des témoins soussignés, moi, Joseph Michel, natif de la province et république de Gènes, com'erçant en ce district, étant dans mon lit, malade de corps, mais libre de l'esprit, ne pouvant prévoir combien de temps il plaira à Dieu de me laisser sur la terra, j'ai fait le présent testament qui contient les volontés dernières que j'entends et je veux qui soient exécutées lorsque je ne serai plus de ce monde. Ayant fait un contrait de mariage avec Élizabeth Lafont, ma légitime épouse, qui règle ses droits dans ma succession, j' confirme et entends que ledit contrat de mariage soit exécuté et rempli ponctuellement. Je déclare et reconnais mes deux enfants naturels, Joseph Michel et Étienne Michel, baptisé sous le nom d'Étienne Clermont, lesquels sont en pension à Baltimore sous les soins de mon ami, James Calhoun. J'entends et je veux qu'après mes dettes payées il soit réservé par l'exécuteur de mes présentes volontés, sur mes biens-fonds et en terres dans ce district et province de la Louisiane, après que mon épouse sera remplie de ses droits suivant son contrat de mariage, les deux tiers des biens-fonds, dont un tiers sera *and* appartiendra à Joseph Michel, l'autre tiers à Étienne Michel, ba'tisé Clermont; le troisième tiers appartenant et revenant de droit à Napoléon mon 3me fils; desquels biens-fonds suivant la part cy-dessus fixée à chacun d'eux, j'entends qu'ils n'entrent en possession et propriété qu'à leur majority c'est-à-dire, lorsqu'ils auront chacun atteint l'âge de vingt-et-un an', et d'icy à cette époque j'entends et je veux qu'Élizabeth Lafont, mon éspouse, sur la part des biens que je lui laisse, compte annuellement à chacun de mesdits deux enfants la somme de trois cents piastres par année pour continuer leur éducation et fournir à leur entretien et autres besoins imprévus. Je déclare que la société d'entre moi et Étienne Boyan, mon beau frère, est dissoute, et qu'il a reçu de moi ce qui lui appartenait dans ladite société d'entre lui et moi, tant par les sommes que j'ai payées pour lui, que par les effets, marchandises et argent qu'il a emporté en France, ainsi qu'on pourra le voir dans mes papiers et correspondance avec Joseph Fouque et Gérôme Lachapelle, com'erçants de la Neuvelle-Orleans, et d'après un acte de dissolution de ladite société qu'on trouvera dans mes papiers, fait entre moi et ledit

Étienne Boyon. Je déclare également que tous mes biens sont libres, et que je n'ai aucune société avec qui que ce soit, qu'avec ma chère femme Elizabeth Lafont, résultant de notre contrat de mariage ensemble, et que des projets de sociétés que j'avais formé' avec Mo'sieur Joseph Fouque, de la Nouvelle-Orléans, n'ont jama's eu leur exécution jusqu'à ce moment. Je déclare que ledit Joseph Fouque a entre ses mains diverses propriétés à moi appartenantes, que l'on verra constatées par mes comptes avec lui et par sa correspondance avec moi. Je déclare que je suis associé pour des terres avec diverses person's suivant un acte déposé entre les mains de M^r. Laforge, et qu'il ne m'appartient que
391 la moitié dans la vente qui m'a été faite par diverses person's propriétaires, dont ledit Laforge a la note et la liste, et que Robert McCay, mon beau frère, connait bien lui-même. Comme il résulte de mes comptes avec François Michel, mon frère, et par mes livres, que je lui a' fait beaucoup d'envoi' de marchandises, dont les retours et pay'ments ne m'ont pas été fait' exactement, j'entends et je veux qu'il ne lui soit rien répété des avances et pay'ments que je lui ai fait', ainsi que des biens-fonds qu'il a acquis sous mon nom avec mes propriétés et qu'il n'a pas encore passé' sous mon nom, dont du tout je lui fait un don absolu et sans aucune répétition par mes héritiers, à moins qu'il ne veuille les troubler après ma mort, ce qu'à Dieu ne plaise. Je nomme pour exécuter mes volontés cy-dessus et pour régler mes affaires et administrer ma succession, Messieurs Pierre A'te Laforge et Robert McCay, mes amis, entendant que toutes mes affaires soient réglée' à l'amiable et par arbitrage, en cas de contestation, autant que possible. Je lègue à ma nièce, Désirée Michel, demeurant présentement avec moi, une somme de deux mille piastres qui seront prélevé's en biens-fonds sur ceux qui doivent être partagés entre mes trois fils, et lesquels biens-fonds, jusqu'à la concurrence de deux mille piastres, lui seront délivrés lors de son établissement par mariage; et après que le présent, où est un mot rayé comme nul, m'a été lu et relu, en présence des témoins soussignés, j'y ai apposé ma croix et mon sceau, comme contenant les volontés que j'entends qui soient exécutées si Dieu me retire de ce monde, et pour l'exécut'on desquelles mes exécuteurs ne seront point tenus à donner caution.

marque
JOSEPH + MICHEL. [SCEAU.]
de

Witness preasant:
(Sign'd) JOSEPH HUNTER.
TH. NEALE.
BERNARD LAFFONT.

LOUISIANA TERRITORY,
District of New Madrid, sct:

On the fourth day of April, in the year of our Lord one thousand eight hundred and ten, before me, Michael Amoureux, judge of probate for and in the said district, personally appeared Joseph Hunter, esquire, one of the judges of the court of common pleas of said district, and Thomas Neale, doctor in phisic, residing in said district, two of the subscribing witnessess to the instrument of writing hereunto annexed, who made oath, respectively, on the Holy Evangelists *and* Almighty God, that on Sunday, the twenty-fifth day of March of the present year, one thousand eight hundred an' ten, they were present and saw the testator, Joseph Michel, sign, declare, and publish the said hereunto-annexed instrument of writing to be his last will and testament; that the said Joseph Michel, testator, was then of disposing mind and memory, and

that they, the said witnesses, in the presence of the said testator, at his request, and in the presence of each other, subscribed, respectively, their names to the said last will and testament; and they do further declare that they were present and saw Bernard Laffont, one of the subscribing witnesses to the last will, sign his name thereto at the same time in the presence and at the request of the said testator.

In testimony whereof the said Joseph Hunter and Thomas Neale have hereunto subscribed their names with me.

(Signed) JOSEPH HUNTER.
TH. NEALE.

Sworn to & subscribed before me this day and date above written.

M. AMOUREUX,
Judge of Probate Dist. New M'd'id.

On the ninth day of April, in the year one thousand eight hundred and ten, before me, Michael Amoureux, judge of probate of the district of New Madrid aforesaid, personally appeared Bernard Laffont, one of the subscribing witness' to the within last will and testament, and made oath on the Holy Evangelists of Almighty God that he was present, saw, and heard Joseph Michel, the testator, sign, publish, and declare the said writing to be his last will and testament; that the said Joseph Michel, testator, was then of disposing mind & memory; and that the said witness subscribed his name to the said will at the request and in the presence of said testator, and in the presence of Joseph Hunter and Thomas Neale, the two other witnesses to the said last will & testament.

In witness whereof the said Bernard Laffont has hereunto set his name with me; and further the said witness declares that it was on Sunday, the twenty-fifth day of last March, that the said last will was thus executed and signed.

(Signed) BERNARD LAFFONT.
M. AMOUREUX,
Judge of Probate.

STATE OF MISSOURI,
County of New Madrid:

I, Richard Barkley, clerk of the county court in and for the county of New Madrid aforesaid, do certify that the foregoing is a full and complete copy with the probate of the last will and testament of Joseph Michel, dec'd, as the same remains of record.

In testimony whereof I, Rich'd Barkley, clerk of the county court in and for the county of New Madrid aforesaid, have hereunto signed my name and affixed the seal of said court at office in New Madrid, this 17th day of July, A. D. 1847.

[SEAL.] RICH'D BARKLEY, *Clerk.*

Filed for record August 20th, 1847.

S. D. BARLOW, *Recorder.*

STATE OF MISSOURI,
County of St. Louis:

I, the undersigned, recorder for said county, certify that the foregoing instrument of writing is a true copy of *a* the last will & testament of Joseph Michel, the probate thereof, and the date of filing, as the same remains of record in my office in book N. 4, page 96.

Witness my hand & official seal this thirtieth day of May, 1870.

[SEAL.] JULIUS CONRAD, *Recorder.*

[5-ct int. rev. stamp canceled.]

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at 392 o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book B of wills, page 153, 154, 155, 156, 157.

In testimony whereof I have hereunto set my hand and affixed my official seal this 28th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

(Indorsed:) Joseph Michel's last will & testament. N. 4—96. $2.00

Decree.

In the circuit court of St. Louis County, in chancery, March term, 1832.

THURSDAY, *May 10th*, 1832.

MATTHEW BOGLIO, HEIR AND ADMINISTRATOR of Ettienne Boglio, dec'd,
vs.
ROBERT MCCOY, EXECUTOR OF THE LAST WILL and testament of Joseph Mitchel, dec'd, & others.

} Circuit court Saint Louis County. In chancery.

This cause coming on at this day to be finally heard before said court, in the presence of counsel on both sides, upon the pleadings, exhibits, depositions, interlocutory decree and orders of court, and upon the report of the commissioner, Thompson Douglass, made in pursuance of said interlocutory decree, and the additional order of this court bearing date the twenty-ninth day of April, eighteen hundred and twenty-six, this court being fully advised of and concerning the premises, and by and with the consent of the said parties, plaintiff and defendants, to this cause, now here in court declared and given, doth order, adjudge, and decree that the report aforesaid made by said commissioner, which report bears date the fourteenth day of April, eighteen hundred and twenty-eight, be, and the same is hereby, annulled and set aside; and instead and in lieu thereof, and of the property, real and personal, and of the amount in money awarded by said report to said Matthew Boglio, this court doth, with the consent of said parties as aforesaid, order, adjudge, and decree that said plaintiff, Matthew Bogliolo, is entitled to the possession and property of, in, and to the four following named and described negro slaves, which were of the estate of said Joseph Mitchel, deceased, to wit, a man named Dick, a man named Toby, a man named Jack, and a woman named Caty; and that said slaves shall be delivered up by said defendant, Robert McCoy, to said Matthew Bogliolo; and that said Robert McCoy shall make and execute to said Matthew Bogliolo such written transfer or assignment of said slaves as shall be necessary to vest in said Matthew Bogliolo all such right, title, and claim as the said Joseph Mitchel in his life-time had, or the said Robert McCoy, under the said Joseph Mitchel, now has or may have therein.

And this court doth further adjudge and decree, by and with the consent aforesaid, that the said Matthew Bogliolo is entitled to the possession and property of, in, and to the following-described tracts of land and town lots situate in the town and county of New Madrid, in the counties of Scott, Cooper, Cole, Howard, and St. Louis, respectively, in the State of Missouri, to wit: Four lots containing one arpen, French measure, each, situated in the town of New Madrid, being those numbered fifty-nine, sixty, sixty-one, and sixty-two on the plat of survey of said town, and which said plat is of record in the proper office at New Madrid aforesaid, and being the same lots claimed by the said Joseph Mitchel, deceased, under one Charles Bonneau; also one other lot, containing one arpen, French measure, numbered two hundred and seventy-six on the plat aforesaid, claimed by the said Joseph Mitchel, under one Peter Peron; and which said five arpens are numbered on the inventory of the real and personal property of said Joseph Mitchel, filed in this cause, as number ninety-six and ninety-seven; also a tract of land containing seventy-five arpens, French superficial measure, situated at the Lake St. Mary, in the county of New Madrid, originally granted to Francis Racine, and confirmed to him, his heirs, and assigns, as will appear by reference to the commissioner's minutes, book 5, (five,) page 340, (three hundred and forty,) in the office of the United States recorder of land-titles at St. Louis; also a tract of one hundred arpens, French superficial measure, situated at Lake St. Anne, in the county of New Madrid, originally granted to Hugh McDonald Chisholme and his heirs, and confirmed to him and them, as will appear, reference being had to the commissioner's minutes, book 5, (five,) page 161, (one hundred and sixty-one,) in the office last aforesaid; also a tract of two hundred and fifty arpens, French superficial measure, situated at Lake St. Mary, County of New Madrid, originally belonging to Louis Bates, and to him confirmed under settlement-right, as will appear, reference being had to the commissioner's minutes, book 5, (five,) page 73, (seventy-three,) in the office last aforesaid; also a tract of two hundred arpens, situated at Lake Gayoso, in the county of New Madrid, confirmed upon settlement-right to John B. Hebert, his heirs and assigns, as will appear by reference to the commissioner's minutes, book 5, (five,) page 3, (three,) in the office aforesaid; also a tract of two hundred and thirteen and one-third arpens on Lake Gayoso, county of New Madrid, being part of a large tract of three hundred arpens confirmed to Louis Bates and his legal representatives, as will appear by reference to the decision of Frederick Bates, recorder of land-titles, book 1, (one,) page 13, (thirteen,) in the office aforesaid; also a tract of one hundred and seventy arpens, situated fronting on Lake St. Anne, in the county of New Madrid, originally claimed by Samuel Dorsey, and by him sold to Joseph Mitchel, by deed bearing date the twenty-fifth November, eighteen hundred, which said tract is numbered 34, (thirty-four,) on the inventory of the real property of said Joseph Mitchel, on file as an exhibit in this cause; also a tract of two hundred arpens lying about two miles from Little Prairie, fronting a quarter of a mile on the Mississippi, in the county of New Madrid, belonging to the estate of the said Joseph Mitchell, and numbered 37 (thirty-seven) on the inventory last aforesaid; also a tract of three hundred arpens situated on Lake Gayoso, near Little Prairie, in the county of New Madrid, belonging to said estate by virtue of a conveyance, for valuable consideration to him, the said Joseph Mitchel, made by Joseph Charpentier, and numbered on said inventory 39, (thirty-nine;) also a tract of two hundred arpens of land fronting on the Mississippi River, near the Little Prairie, originally owned by Jesse Taylor, and conveyed by Pierre Damay,

assignee of said Jesse Taylor, to said Joseph Mitchel by deed bearing date the twenty-fifth day of May, eighteen hundred and seven, as described on said inventory under the number 51, (fifty-one;) also a tract of two hundred and forty arpens of land situated on Bayou St. Thomas, in the county of New Madrid, confirmed to John B. Chartier, as will appear by reference to the commissioner's minutes, book 5, (five,) page 90, (ninety,) in the office of the United States recorder of land-titles
333 at St. Louis; also a tract of two hundred arpens, situated on Lake Gayoso, in the county of New Madrid, confirmed to said Joseph Mitchel, under Louis Thirart, as will appear, reference being had to the decisions of Frederick Bates, United States recorder of land-titles, book 1, (one,) page 12, (twelve,) in said office; also a tract of two hundred arpens of land situated on Bayou St. John, county of New Madrid, confirmed on settlement-right to Francis Langlois, senr., as appears by the commissioner's minutes, book 5, (five,) page 191, (one hundred and ninety-one,) in the office of the United States recorder of land-titles at St. Louis; also a tract of four hundred arpens fronting on Bayou St. Thomas, county of New Madrid, purchased by said Joseph Mitchel, in his life-time, of Michel Deaz, by deed of the second June, eighteen hundred and three, as described in the inventory aforesaid by the number 29, (twenty-nine;) also a tract of two hundred and forty arpens of land fronting on Lake St. Isidore, in the county of New Madrid, being the same purchased by said Joseph Mitchel at the public sale of property of Benjamin Harrison, on the fifth January, eighteen hundred and nine, which said tract is numbered 33 (thirty-three) on the said inventory; also tract of one hundred and twenty arpens lying near the Little Prairie, fronting on the Mississippi, in the county of New Madrid, being the same purchased by the said Joseph Mitchel of Joseph Charpentier, and described as number 40 (forty) in the inventory aforesaid; also a tract of one hundred and twenty arpens behind and adjoining the Little Prairie, in the county of New Madrid, being the same purchased by said Joseph Mitchel of Joseph *Genevena*, [Genereux,] by deed of the eighth April, eighteen hundred and eight, and described in said inventory as number 45, (forty-five;) also the south half of a tract of six hundred and forty acres, in townships eighteen and nineteen north, range thirteen east, in the county of New Madrid, being survey number thirty-four, by virtue of a confirmation and order of survey in favor of said Joseph Mitchel, as will more fully appear by reference to said survey, recorded in book B, page one hundred and thirty-nine, in the office of the United States surveyor at St. Louis; also a tract of two hundred arpens, equal to one hundred and seventy and fourteen hundredths acres, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey number five hundred and forty nine, made in favor of Joseph Mitchel, as will more fully appear by reference to said survey, recorded in book B, page two hundred and three, in the office of the United States surveyor at St. Louis; also a tract of two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey number five hundred and fifty-eight, made in favor of the said Joseph Mitchel, under Peter Robert, as will more fully appear by reference to said survey, duly recorded in book B, pages two hundred and four and two hundred and five, in the office last aforesaid; also a tract of two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey number

five hundred and forty-eight, made in favor of Joseph Mitchel, as appears by said survey, recorded in book B, page two hundred and three, in the office last aforesaid; also a tract of two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey number five hundred and eighty-three, made in favor of John Viot, as appears by said survey, recorded in book B, page two hundred and six, in the office aforesaid; also a tract of two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township twenty-five north, ranges thirteen and fourteen east, in the county of New Madrid, being survey number two hundred and fifty-four, made in favor of the said Joseph Mitchel, under Jacob Myers, as will more fully appear by said survey, duly recorded in book B, page one hundred and sixty-seven, in the office aforesaid; also a tract of two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in townships number twenty-five and twenty-six north, ranges thirteen and fourteen east, in the county of New Madrid, being survey number two hundred and fifty-five, made in favor of Joseph Mitchell, under Benjamin Myers, as will appear by reference to said survey, recorded in book B, pages one hundred and sixty seven and one hundred and sixty-eight, in the office aforesaid; also a tract of two hundred arpents, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township twenty-five north, range fourteen east, in the county of New Madrid, being survey number one thousand and two, made in favor of Joseph Mitchel, under James Jamison, as will appear by reference to said survey, recorded in book B, page two hundred and sixty-two, in the office aforesaid; also a tract of two hundred and twenty arpens, equal to one hundred and eighty-seven acres and fifteen hundredths of an acre, situated in township number twenty-three north, range fourteen east, in the county of New Madrid, being survey, number ninety-seven, made in favor of Joseph Mitchel, under John Baptiste *Barceleaux*, [Barsalow,] as will appear by reference to said survey, recorded in book B, page one hundred and forty-six, in the office aforesaid; also a tract of three hundred and twenty-five arpens, equal to two hundred and seventy-six acres and forty-seven hundredths of an acre, situated in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and nine, made in favor of Joseph Mitchel, under Stephen St. Mary, as will appear by reference to said survey, recorded in book B, page two hundred and eight, in the office aforesaid; also a tract of two hundred and forty arpens, equal to two hundred and four acres and sixteen hundredths of an acre, situated in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and eighty-five, made in favor of Joseph Mitchel, under Stephen St. Mary, as will appear by reference to said survey, recorded in book B, page two hundred and twenty-one, in the office aforesaid; also a tract of two hundred and seventy-three arpens, equal to two hundred and thirty-two acres and twenty-three hundredths of an acre, situate in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and three, made in favor of Joseph Mitchel, under Joseph Reindeau, as will appear by reference to said survey, recorded in book B, page two hundred and seven, in the office aforesaid; also a tract of ninety arpens, equal to seventy-six and a half acres, situated in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and

eighty-six, made in favor of Joseph Mitchel, under Francis St. Mary, as will appear by reference to said survey, recorded in book B, page two hundred and twenty-one, in the office aforesaid; also one other tract, containing eighty-five acres and seven hundredths of an acre, confirmed to Joseph Mitchel, under Joseph Payne, situated in township twenty-one north, range fourteen east, in the county of New Madrid, by certificate numbered one thousand and fifty-one of confirmation
394 in the office aforesaid; also a tract of land containing two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township twenty-seven north, range thirteen east, in the county of Scott, being survey number four hundred and thirty-four, made in favor of Joseph Mitchel, under John Robertson, as will appear by reference to said survey, recorded in book B, page one hundred and twenty-one, in the office aforesaid; also one other tract, containing eighty-five acres and seven hundredths of an acre, confirmed to Joseph Mitchel, under Joseph Payne, situated in township twenty-one north, range fourteen east, in the county of New Madrid, by certificate numbered one thousand and fifty-one of confirmation, in the office aforesaid; also a tract of land containing two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township twenty-seven north, range thirteen east, in the county Scott, being survey number four hundred and thirty-four, made in favor of Joseph Mitchel, under John Robertson, as will appear by reference to said survey, recorded in book B, page one hundred and ninety-seven in the office aforesaid; also a tract of four hundred arpens, equal to three hundred and forty acres twenty-eight hundredths of an acre, situated in township twenty-seven north, range seventeen east, in the county of St. Louis, being survey number one thousand and ninety-six, made for Richard Jones, as will appear by reference to said survey, recorded in book B, pages two hundred and sixty-two and two hundred and sixty-three, in the office aforesaid; also a tract of two hundred arpens, equal to one hundred and seventy acres fourteen hundredths of an acre, situated in township twenty-seven north, range thirteen east, in Scott County, being survey number six hundred and thirty-three, made in favor of John Tannchill, as will appear by reference to said survey, recorded in book B, page two hundred and twelve, in the office aforesaid; also a tract of land, being two-thirds of the northern part of a tract of four hundred arpens, equal to three hundred and forty acres twenty-eight hundredths of an acre, situated in township twenty-seven north, range thirteen east, in Scott County, being survey number six hundred and twenty-six, made in favour of David Trotter, as will appear by reference to said survey, recorded in book B, page two hundred and eleven, in the office aforesaid; also a tract of two hundred arpens, French superficial measure, situated in township forty-eight north, range sixteen west, in the county of Cooper, being the same tract of land included in a location made by Robert McCoy, as legal representatives of Louis Coignard, legatee of Claude Joseph Gorret, in virtue of a certificate numbered four hundred and thirty-five, issued by Frederick Bates, recorder of land-titles, dated August eighteenth, eighteen hundred and eighteen, as will more fully appear by reference to said location, entered as number two thousand nine hundred and twenty-five and as of class number five hundred and forty-one, and duly recorded in the record-book of New Madrid locations, page three hundred and sixty-four, in the office of the surveyor of the United States at St. Louis; also a tract of six hundred and forty acres, situated in township forty-eight north, range fifteen west, in the county of Cooper, being

survey number two thousand eight hundred and seventy-four, made in favor of Francis Foisy *as* his legal representatives, and located by virtue of a New Madrid certificate, number four hundred and nine, as will appear by reference to said survey, recorded in book A, page thirty-nine, in the office aforesaid; also a tract of two hundred and forty-three acres and eighty-five hundredths of an acre, situated in township forty-eight north, range fifteen west, in the county of Cooper, being survey number two thousand eight hundred and seventy-five, made in favor of John B. Racine, or his legal representatives, by virtue of a New Madrid certificate, number four hundred and forty-one, as will appear by reference to said survey, recorded in book A, page thirty-seven, in the office aforesaid; also a tract of one hundred and sixty acres of land, situate in fractional township number forty-eight north, range fourteen west, so as to include the northwest quarter of section thirty, on the south side of the Mississippi River, in the county of Cole, which tract was located by Robert McCoy on the twenty-eighth day of January, eighteen hundred and nineteen, as the legal representatives of Charles Bonneau, in virtue of a New Madrid certificate issued by Frederick Bates, recorder of land-titles, in favor of Charles Bonneau or his legal representatives, and numbered four hundred and twenty, dated eighteenth day of August, eighteen hundred and eighteen, as will appear by reference to said location, entered and recorded as number two thousand eight hundred and seventy-two, class number four hundred and twenty-five, in the book of New Madrid locations, pages three hundred and one and three hundred and two, in the office aforesaid; also a tract of land, consisting of the west half of a tract of six hundred and forty acres, situated in township fifty-two north, range sixteen west, so as to include section number fifteen, in Howard County, which tract of six hundred and forty acres was located by Robert McCoy on the (25) twenty-fifth day of April, eighteen hundred and twenty-three, by virtue of a New Madrid certificate issued by Frederick Bates, recorder of land-titles, in favor of Francis Millet or his legal representatives, number four hundred and six, and dated eighteenth August, eighteen hundred and eighteen, as will appear by reference to said location, entered and recorded as number twenty-nine hundred and two in the record-book of New Madrid locations, page three hundred and eighty-four, in the office aforesaid; also a tract of land, containing three hundred and twenty acres, being the east half of a tract of six hundred and forty acres, situated in township forty-eight north, ranges fourteen and fifteen west, in the counties of Cooper and Cole, being survey number twenty-eight hundred and seventy-three, made in favor of Joseph Legrand or his legal representatives, by virtue of a New Madrid certificate, as will appear by reference to said survey, recorded in book A, page thirty-eight, in the office aforesaid; also a tract of land containing two hundred and forty arpens, equal to two hundred and four acres sixteen hundredths of an acre, situated in township fifty north, range sixteen west, in the county of Howard, being survey number twenty-nine hundred and seventeen, made in favor of Ambrose Dumay or his legal representatives, by virtue of a New Madrid certificate, number four hundred and forty-five, as will appear by reference to said survey, recorded in book A, page one hundred and fourteen, in the office aforesaid; also a tract of three hundred and twenty acres, being the west half of section seventeen, in township twenty-nine north, range fourteen east, in the county of Scott, located by Robert McCoy by virtue of a New Madrid certificate, number four hundred and seven, dated eighteenth August, eighteen hundred and eighteen, issued by Frederick Bates, recorder of

land-titles, in favor of Hyacinth Bertheaume or his legal representatives, as will appear by reference to said location, duly recorded in the record-book of New Madrid locations, page three hundred and sixty-five, in the office aforesaid; also a tract of two hundred and forty acres, being the east half of a tract of land containing four hundred and eighty acres of land, situated in township forty-eight north, range fifteen west, in Cooper County, being survey number twenty-eight
395 hundred and seventy, made for Andrew Godair or his legal representatives, by virtue of a location under a New Madrid certificate, number four hundred and three, as will appear by a reference to said location and survey, recorded in book A, page forty, in the office aforesaid; also a tract of land containing one hundred and twenty-seven acres, sixty hundredths of an acre, being the west half of a tract of two hundred and fifty-five acres twenth-one hundredths of an acre, surveyed for Alexander Sampson or his legal representatives, by virtue of New Madrid certificate number three hundred and ninety-three, situated in township forty-eight north, range sixteen west, in the county of Cooper, being survey number twenty-eight hundred and sixty-nine, as will appear by reference to said survey, recorded in book A, page thirty-seven, in the office aforesaid; also a tract of land containing six hundred and forty acres, situated in townships forty-six and forty-seven north, range six east, in the county of St. Louis, being survey number twenty-seven hundred and twenty-nine, made in favor of Anthony Bonneau or his legal representatives, by virtue of a New Madrid certificate, number three hundred and sixty-nine, as will appear by reference to said survey, recorded in book A, page eighty-nine, in the office aforesaid, the said land being originally granted and confirmed to the said Bonneau, and the same as designated by number one hundred and four on the inventory of the real estate of the said Joseph Mitchell filed in this cause; also, a tract of land containing six hundred and forty acres, situated in township forty-six north, range six east, in the county of St. Louis, being survey twenty-six hundred and eighty-nine, made for John Dominique or his legal representatives, located by virtue of a New Madrid certificate, number two hundred and eighty, as will appear by reference to said survey, recorded in book A, pages one hundred and eight and one hundred and nine, in the office aforesaid, the said land being originally granted and confirmed to said John Dominique and his legal representatives, designated by number one hundred and fifteen on the inventory of the real estate of the said Joseph Mitchel filed in this cause; also a tract of land containing four hundred and eighty acres, situated in township forty-six north, range six east, in the county of St. Louis, located by virtue of New Madrid certificate number three hundred and thirty-three, dated twenty-sixth September, eighteen hundred and seventeen, in favor of John Baptiste Thebeault, or his legal representatives, as will appear by reference to said location, recorded in the record-book of New Madrid locations, page two hundred and seventeen, in the office aforesaid, being the same originally granted and confirmed to John Baptiste Thebeault, designated as number one hundred and twenty-three on the inventory of the real estate of the said Joseph Mitchel filed in this cause; also a tract of land containing three hundred and twenty acres, being part of a tract of four hundred and eighty acres, situated in township fifty north, range sixteen west, in the county of Howard, located twentieth November, eighteen hundred and eighteen, and surveyed for Joseph Dumay or his legal representatives, by virtue of New Madrid certificate number four hundred and five, as will appear by reference to said survey, number twenty-eight hundred and

twenty-two, recorded in book A, page sixty-eight, in the office aforesaid, being the same originally granted and confirmed to Joseph Dumay, and designated by number one hundred and twenty-two on the inventory of the real estate of the said Joseph Mitchel filed in this cause. And it is further ordered, adjudged, and decreed that all the said town lots and tracts of land above described, situated in the State of Missouri, are hereby transfer'ed, conveyed to, and vested in the said Andrew Bogliolo as fully and completely, at law and in equity, as the same, or the title thereto, was vested in the said Joseph Mitchel during his lifetime, or his heirs or legal representatives since his decease. And it is further ordered, adjudged, and decreed, with the consent of the said parties as aforesaid, that the said plaintiff, Matthew Bogliolo, is entitled, as heir and administrator of Ettienne Bogliolo, deceased, to the possession and property of, in, and to all the lots or tracts of land, together with the appurtenances, situate, lying, and being in the Territory of Arkansas, which lands and lots were vested in the said Joseph Mitchel in his lifetime, or in his heirs, devisees, or legal representatives at and since the time of his decease, and which have not been sold or conveyed by the said Robert McCoy to a purchaser or purchasers for valuable consideration previous to the twenty-sixth day of November, eighteen hundred and thirty. And it is hereby further adjudged and decreed that the said Robert McCoy and the other said defendants shall execute to the said Matthew Bogliolo such deed or deeds of conveyance, with special warranty only as may be necessary and proper to convey to and vest in the said Matthew Bogliolo all the right, title, claim, and interest of the said Robert McCoy, or of the other said defendants, in and to all the above mentioned and described lots, lands, tenements, and hereditaments, with the appurtenances, situated in the State of Missouri and in the Territory of Arkansas, and which was vested in the said Joseph Mitchel during his life-time, or in his heirs or legal representatives since his decease, and as far as the title thereto is claimed by said defendants, or any of them, directly or indirectly, from or under the said Joseph Mitchel, or those under whom the said Joseph Mitchel claimed or held said land, or any part thereof. And it is further ordered, adjudged, and decreed that the said Matthew Bogliolo shall have such writ or writs of possession, directed to the sheriff of the county or counties, respectively, in this State in which the said lots or lands are situated, and which writs of possession may be necessary, according to law in such case made and provided, for the enforcement of this decree in favor of the said Matthew Bogliolo, and to give to the same its full and final effect as respects the lots and lands situated in this State which are hereby adjudged and decreed to the said Matthew Bogliolo. And it is further adjudged and decreed that the said Robert McCoy and the said other defendants be, and they are hereby, discharged and released from all claims, demands, or suit whatsoever other than those adjudged against them by this decree on the part of the said Matthew Bogliolo. And it is further adjudged and decreed that the costs accrued and incurred in this cause shall be ascertained and taxed by the proper officer, so as to include the costs accrued in the circuit court of Cape Girardeau County, the former court of chancery of this State, the supreme court, and this court, and that one moiety of the whole amount of said costs, so taxed and ascertained, shall be chargeable to and paid by said Matthew Bogliolo, and the other moiety of said costs shall be chargeable to and payable by said defendant Robert McCoy, and that the amount of such taxed costs as shall have been already paid by either of the said parties shall be taken and credited as so much paid upon and in deduction of

the amounts so to be paid by said Matthew Bogliolo and said Robert McCoy, respectively; and further, that executions be issued for the costs to be paid by the parties respectively according to the ascertainment and taxation to be made as aforesaid.

396 STATE OF MISSOURI,
County of St. Louis, ss:

I, John Lewis, clerk of the circuit court of St. Louis County, hereby certify the foregoing to be a true copy of a decree in chancery, rendered by the said court in the case of Matthew Bogliolo, heir, &c., vs. Robert McCoy, exr., &c., on the 10th day of May, A. D. 1832, as fully as the same remains of record in my office.

In testimony whereof I hereto set my hand and affix the seal of said court at office in the city of St. Louis this 19th day of November, A. D. 1870.

[SEAL.] JNO. LEWIS, *Ck.*

(Indorsed:) 3 B. No. 1. Decree. Matthew Bogliolo, heir & administrator of Ettienne Boglio, dec'd, vs. Robert McCoy, executor of the last will and testament of Joseph Mitchel, dec'd, & others. Copy. Decree. 6244. McKay and Gitt vs. The United States. Filed Oct. 6, 1874. J. R.

EXHIBIT C.—*Relinquishment deed from Robt. McCay, ex. of Michel, to United States*, 1818.

This deed witnesseth, that Robert McCay, of the county of New Madrid, in the Territory of Missouri, executor testimentary and administrator of all and singular the goods, chattles, rights, and credits of the estate of Joseph Mitchel, late of said county, deceased, for and in consideration that he is about to take the benefit of the act of Congress, passed the seventeenth day of February, one thousand eight hundred and fifteen, by locating on the public lands of Missouri Territory, according to the provisions of that act, and as executor and administrator aforesaid, the following tracts or parcels of land, to wit: Two hundred arpents of land for and in lieu of the like quantity of land situate on Big Lake, in said county of New Madrid, being the same tract of two hundred arpents of land which was confirmed to Louis St. Aubin, junior, as appears by the records in this office of the recorder of land-titles of Missouri Territory, certificate (No. 1050) number one thousand & fifty; also one hundred and sixty acres, for and in lieu of one hundred and twenty arpents, situate in said county of New Madrid, on Lake Gayoso, which was confirmed to Charles Bonneau, as appears by the records of the recorder's office aforesaid, (No. 692) number six hundred and ninety-two; also two hundred and forty arpents of land, for and in lieu of the like quantity of land situate on Bayou St. Thomas, in said county of New Madrid, being the same tract which was confirmed to Francis B. Corvoysur, as assignee of John Escart, as appears by the records in the office of the recorder aforesaid, certificate (682) six hundred and eighty-two; also two hundred and forty arpens of land for and in lieu of the like quantity of land situate on Bayou St. Thomas, in said county of New Madrid, being the same tract which was confirmed to Francis B. Corvoysuer, as assigne' of Isaac Thompson, as appears by the records in the office of the recorder aforesaid, certificate (No. 683) six hundred and eighty-three; also one hundred and ninety-eight arpens of land, for and in lieu of the like quantity of land situate on Bayou St.

Thomas, in said county of New Madrid, being the same tract which was confirmed to Francis Corvoysior, as assigne' of Isaac Thompson, as appears by the records in the office of the recorder aforesaid; also two hundred and forty arpens, for and in lieu of the like quantity of land situate on Lake St. Mary, in said county of New Madrid, being the same tract which was confirmed to Ambose Dumay as appears by the records in the office of the recorder aforesaid, certificate (No. 607) six hundred and seven; also two hundred arpens of land for and in lieu of the like quantity of land situate on Big Lake, in said county of New Madrid, being the same quantity which was confirmed to Louis Denoyon, as appears by the records in the office of recorder aforesaid, certificate (No. 1049) one thousand and forty-nine; also one hundred and sixty acres for and in lieu of a town lot of two arpens of land in the town of New Madrid aforesaid, being the same lot which was confirmed to Tousaint Godvrie, as appears by the records in the office of the recorder aforesaid; also two hundred arpens for and lieu of the like quantity situate on river Gayoso, in said county of New Madrid, being the same quantity of land which was confirmed to John Bt. Grimard, as appears by the records in the office of the recorder aforesaid, certificate (No. 592) five hundred and ninety-two; also two hundred arpens of land for and in lieu of the like quantity situate on the portage in said county of New Madrid, being the same tract of two hundred arpens of land which was confirmed to Tousaint Goduir, as appears by the records in the office of the recorder aforesaid, certificate (No. 560) five hundred and sixty, and book No. 5, pages 295 & 296; *as*to one hundred and sixty arpens for and in lieu of a town lot situate in the town of New Madrid aforesaid, being the same lot of one arpent which was confirmed to Gabriel Hunot, senior, as appears by the record in the office of the recorder aforesaid; also six hundred & forty acres of land for and in lieu of seven hundred & fifty arpens of land situate on Portage St. Francois, in said county of New Madrid, being the same seven hundred and fifty arpens which was confirmed to Joseph Legrand, as appears by the records in the office of the recorder aforesaid, certificate No. ; also two hundred arpens of land for and in lieu of the like quantity situate on Bayou St. John, in said county of New Madrid, being the same two hundred arpens which was confirmed to Francis Langlois, as appears by the records in the recorder's offi'e of the Territory of M'ssouri aforesaid, certificate (No. 1076) one thousand and seventy-six; also three hundred and twenty arpens or acres for and in lieu of two town lots situate in the village of Little Pra'rie, in *in* said county of New Madrid, being the same lots of one arpen each which were confirmed to Jean Montmiel, as appears by the records in the recorder's office aforesaid; also two hundred and forty arpens of land for and in lieu of the like quantity of land situate on Lake St. Mary, in said county of New Madrid, being the same two hundred & forty arpens which was confirmed to John Baptist St. Mary, as appears by the records in the office of the recorder aforesaid, certificate (No. 688) six hundred and eighty-eight; also two hundred arpens of land for and in lieu of the like quantity situate *of* Lake Carondolet, in said county of New Madrid, being the same two hundred arpens which was confirmed to Peter Peron, as appea's by the records in the office of the recorder for the Missouri Territory aforesaid, certificate (No. 1070) one thousand & seventy; also two hundred and fifty arpens for and in lieu of the like quantity situate *of* Lake St. Mary, in said New Madrid County, being the same two hundred and fifty arpens which were confirmed to Fran'is Pasquin, as appears by the records in the office of the recorder aforesaid, cer-

tificate (No. 625) six hundred and twenty-five; also two hundred arpens of land for and in lieu of the like quantity situate *of* Lake Gayoso, in said county of New Madrid, being the same two hundred arpens of land
397 which were confirmed to Joseph Michel, as appears by records in the office of the recorder aforesaid, certificate (No. 548) five hundred and forty-eight; also three hundred and seventy-five arpens for and in lieu of the like quantity situate on Bayou St. John, in said New Madrid County, being the same three hundred and seventy-five arpens which were confirmed to Etienne Dumay, as appears by the records of the recorder's office aforesaid; also three hundred and seventy-five arpens for the like and in lieu of same quantity of land situate on Bayou St. John, in said New Madrid County, being the same three hundred and seventy-five arpens which were confirmed to Josiah Roberts, junior, as appears by the records in the recorder's office aforesaid; also two hundred arpens of land for and in lieu of like quantity situate on Lake St. Mary, in said county of New Madrid, being the same two hundred arpens of land which were confirmed to John Lamb as assignee of John McMillan, as appears by the records in the office of the recorder of land-titles for the Territory of Missouri, and which said tracts of lands above described are now owned and by the said Robert McCay, as executor and administrator of the estate of the said Joseph Michel, deceased, as appears by extracts of deeds certified by the clerk of the circuit court of the county of New Madrid, hereunto annexed and herewith exhibited, he, the said Robert McCay, as executor and administrator aforesaid, doth hereby remise, relinquish, and forever quitclaim unto the United States of America the right and title to all the several tracts of lands, town lots, and village lots above mentioned and described.

In testimony whereof the said Robert McCay, executor & administrator aforesaid, hath hereunto set his hand and seal at St. Louis this fifth day of August, in the year of our Lord one thousand eight hundred and eighteen.

ROBERT McCAY. [SEAL.]

Signed, sealed, in presence of—
H. CLARKSON.

TERRITORY OF MISSOURI,
County of St. Louis:

This day personally appeared before me, the clerk of the circuit court for the county aforesaid, the above-named Robert McCay, who acknowledged the above and foregoing quitclaim or deed of relinquishment from him to the United States to be his act and deed, hand and seal, for the purposes therein mentioned, and as such delivered by him.

Given under my hand and seal at office in St. Louis this sixth day of August, 1818.

[L. S.] A. GAMBLE, *Clerk.*

Received for record, recorded, and examined the foregoing on the first day of February, A. D. 1847, at the request of Wm. Gitt, esq., to whom I delivered the original.

ALFR'D DELARODERI, *Clerk.*

STATE OF MISSOURI,
County of New Madrid, sct:

I, John A. Mott, clerk of the circuit court and ex-officio recorder in and for said county, do hereby certify the above and foregoing is a full

and complete transcript of the record of a deed from Robert McCay, administrator and executor of Joseph Michell, to the United States, and of the certificate of acknowledgment and of record, as the same now appears in my office in book No. 17, on page 125 and following of the record of deeds of said county.

In testimony whereof I hereunto subscribe my name and affix the seal of said court at office in the town of New Madrid the tenth day of June, year 1870.

[SEAL.] JOHN A. MOTT,
Clerk and Ex-officio Recorder of New Madrid County.

[5-ct int. rev. stamp canceled.]

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in "record-book H," page 564, '5, '6, '7, '8.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

C, No. 1.—*Robert MacCoy, executor, to Matteo Bogliolo—Deed under decree.*

Know all men by these presents that whereas at a circuit court sitting as a court of chancery in the third judicial circuit of the State of Missouri, begun and held in the city of St. Louis, in the *in the* county of St. Louis, in the State of Missouri, on the fourth Monday of March, being the twenty-sixth day of said month, in the year of our Lord eighteen hundred and thirty-two, and adjourned from day to day until the 10th (tenth) day of May, in the year of our Lord eighteen hundred and thirty-two, it was on the said last-mentioned day, in a certain cause wherein Matteo Bogliolo, heir and administrator of Etienne Bogliolo, deceased, was plaintiff, and Robert McCay, executor of the last will and testament of Joseph Michell, deceased, and others, were defendants, by the said court, among other things, ordered, adjudged, and decreed by and with the consent of the said parties, that the said Matteo Bogliolo was entitled to the possession and property of, in, and to the following-described tracts of land and town lots situated in the town and county of New Madrid, in the counties of Scott, Cooper, Cole, Howard, and St. Louis, respectively, in the State of Missouri; that is to say, four lots in the town of New Madrid, being those numbered fifty-nine, sixty, sixty-one, and sixty-two on the plat of survey of said town, and which plat is of record in the proper office in New Madrid aforesaid, and being the same lots claimed by Joseph Michell, deceased, under one Charles Bouneau; also one other lot, numbered two hundred and seventy-six on the plats aforesaid, claimed by said Joseph Michell under one Peter Perron, each of which aforesaid five lots contain one arpent, French measure, and which said lots are numbered on the inventory of the real and personal property of the said Joseph Michell, filed in said cause, as ninety-six and ninety-seven; also a tract of land containing seventy-five arpents, French

supe'ficial measure, situate at the Lake St. Mary, in the county of New Madrid, originally granted to Francis Racine, and confirmed to him, his heirs and assigns, as will appear by the commissioner's minutes-book (5) five, page (340) three hundred and forty, in the office of the
398 United States recorder of land-titles at St. Louis; also a tract of one hundred arpents, French superficial measure, situated at Lake St. Ann, in the county of New Madrid, originally granted Hugh McDonald Chisholme and his heirs, and confirmed to him and them, as will appear, reference being had to the commissioner's book (5) five, page (161) one hundred and sixty-one, in the office last aforesaid; also a tract of two hundred and fifty arpents, French superficial measure, situated at Lake St. Mary, county of New Madrid, originally belonging to Louis Baby, and to him confirmed under settlement-right, as will appear, reference being had to commissioner's minute-book (5) five, page (73) seventy-three, in the office last aforesaid; also a tract of two hundred arpents, situated at Lake Gayoso, in the county of New Madrid, confirmed upon settlement-right to John B. Herbert, his heirs and assigns, as will appear by reference to commissioner's minute-book (5) five, page (3) three, in the office aforesaid; also a tract of two hundred and thirteen and one-third arpents on Lake Gayosa, county of New Madrid, being a part of a larger tract of three hundred arpents, confirmed to Louis Baby and his legal representatives, as will appear by the decision of Fred'rick Bates, recorder of land-titles, book (1) one, page (13) thirteen, in the office aforesaid; also a tract of one hundred and seventy arpents, situated fronting on Lake St. Anne, in the county of New Madrid, originally claimed by Samuel Dorsey, and by him sold to Joseph Michell by deed bearing date the twenty-fifth of November, (1800,) eighteen hundred, which said tract is numbered thirty-four (34) on the inventory of the real property of the said Joseph Mitchel, on file as an exhibit in said cause; also a tract of two hundred arpents, lying about two miles from Little Pra'rie, fronting a quarter of a mile on the Mississippi, in the county of New Madrid, belonging to the estate of the said Joseph Michel, and numbered (37) thirty-seven on the inventory last aforesaid; also a tract of three hundred arpents, situated on Lake Gayoso, near Little Pra'rie, in the county of New Madrid, belonging to said estate by virtue of a conveyance for valuable consideration to him, the said Joseph Mitchel, made by Joseph Charpentier, and numbered on said inventory (39) thirty-nine; also a tract of two hundred arpents of land, fronting on the Mississippi River, near the Little Pra'rie, originally owned by Jessee Taylor and conveyed by Pierre Dunway, assignee of said Jessee Taylor, to the said Joseph Mitchell by deed bearing date the 25th day of May, eighteen hundred and seven, as described on said inventory under the number (51) fifty-one; also a tract of two hundred and forty arpents of
J. A. M land, situated on Bayou St. Thomas, in the county of New Madrid, confirmed to John B. Chartier, as will appear by reference to the commissioner's minute-book, (5) five, page (90) ninety, in the office of the United States recorder of land-titles at St. Louis; also a tract of two hundred arpents, situated on Lake Gayoso, in the county of New Madrid, confirmed to said Joseph Mitchel, under Louis Thieract, as will appear reference being had to the decisions of Fred'rick Bates, United States recorder of land-titles, book (1) one, page (12) twelve, in said office; also a tract of two hundred arpents of land, situated on Bayou St. John, county of New Madrid, confirmed on settlement-right to Francis Longlois, senr., as appears by the commissioner's minutes-book (5) five, page (191) one hundred and ninety-one, in the office of the recorder of land-titles at St. Louis; also a tract of four hundred arpents, fronting

on Bayou St. Thomas, county of New Madrid, purchased by said Joseph Mitchel, in his life-time, of Michel Dias, by deed of the second of June, eighteen hundred and three, described in the inventory aforesaid by the number (29) twenty-nine; also a tract of two hundred and forty arpents of land, fronting on Lake St. Isidore, in the county of New Madrid, being the same purchased by the said Joseph Mitchel at the public sale of the property of Benjamin Harrison on the 5th of January, eighteen hundred and nine, which said tract is numbered thirty-three (33) on the said inventory; also a tract of one hundred and twenty arpents, lying near the Little Pra'rie, fronting on the Mississippi, in the county of New Madrid, being the same purchased by the said Joseph Mitchel of Joseph Charpenter, and described as number (40) forty in the inventory aforesaid; also a tract of one hundred and twenty arpents behind and joining the Little Prairie, in the county of New Madrid, being the same purchased by the said Joseph Mitchel of Joseph Genereux by the deed of the eighth of April, eighteen hundred and eight, and described in said inventory as number forty-five, (45;) also the south half of a tract of six hundred and forty acres in township' eighteen and nineteen north, range thirteen east, in the county of New Madrid, being survey number thirty-four, by virtue of a confirmation and order of survey in favour of said Joseph Michel, as will more fully appear by reference to said survey, recorded in book B, page 139, in the office of the United States surveyor at St. Louis; also a tract of two hundred arpents, equal to one hundred and seventy and fourteen hundredth' acres, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey five hundred and forty-nine, made in favour of Joseph Michel, as will more fully appear by reference to said survey, recorded in book B, page two hundred and three, in the office of the United States surveyor at St. Louis; also a tract of two hundred arpents, equal to one hundred and seventy and fourteen hundredth' acres, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey five hundred and fifty-eight, made in favour of the said Joseph Mitchell, under Peter Robert, as will more fully appear by reference to the said survey, duly recorded in book B, pages two hundred and four and two hundred and five, in the office last aforesaid; also a tract of two hundred arpents, equal to one hundred and seventy and fourteen hundredth' acres, situated in township eighteen north, (13) thirteen east, in the county of New Madrid, being survey number five hundred and forty-eight, made in favour of Joseph Michel, as appears by said survey, recorded in book B, page two hundred and three, in the office last aforesaid; also a tract of two hundred arpents, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township eighteen north, range thirteen east, in the county of New Madrid, being survey number five hundred and eighty-three, made in favour of John Viot, as appears by said survey, recorded in book B, page two hundred and six, in the office aforesaid; also one tract of two hundred arpents, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township twenty-five north, of range' thirteen and fourteen east, in the county of New Madrid, being survey two hundred and fifty-four, made in favour of the said Joseph Michel, under Jacob Myers, as will more fully appear by said survey, duly recorded in book B, page 167, in the office last aforesaid; also a tract of two hundred arpents, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township' twenty-five and twenty-six north, ranges thirteen and fourteen east, in the county of New Madrid, being survey number two hundred and fifty-five, made in favour of Joseph Mitchel, under Benjamin Myers, as will more

fully appear by reference to said survey, recorded in book B, pages 167 and 168, in the office last aforesaid; also a tract of two hundred arpents, equal to one hundred and seventy and fourteen hundredths of
399 of an acre, situated in township twenty-five north, range fourteen east, in the county of New Madrid, being survey one thousand and ninety-two, made in favour of Joseph Michell, under James Jameson, as will appear by said survey, recorded in book B, page 262, in the office last aforesaid; also a tract of two hundred and twenty arpents, equal to one hundred and eighty-seven acres and fifteen hundredths of an acre, situated in township number twenty-three north, range fourteen east, in the county of New Madrid, being survey number ninety-seven, made in favour of Joseph Mitchel under John Baptist *Barceleaex*, [Barceleau,] as will appear by reference to said survey, recorded in book B, page one hundred and forty-six, in the office aforesaid; also a tract of three hundred and twenty-five arpents, equal two hundred and twenty-six acres and forty-seven hundredths of an acre, situated in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and nine, made in favour of Joseph Michel under Stephen St. Mary, as will appe'r by reference to said survey, recorded in book B, page two hundred and eight, in the office last aforesaid; also a tract of two hundred and forty arpens, equal to two hundred and four acres and sixteen hundredths of an acre, situated in township twenty-three north, range number fourteen east, in the county of New Madrid, being survey number six hundred and eighty five, made in favour of Joseph Mitchel, under Stephen St. Mary, as will appear by reference to said survey, recorded in book B, page two hundred and twenty-one, in the office last aforesaid; also a tract of two hundred and seventy-three arpens, equal to two hundred and thirty-two acres and twenty-three hundreths of an acre, situated in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and three, made in favour of Joseph Mitchel, under Joseph Rideau, as will appear by reference to said survey, recorded in book B, page two hundred and seven, in the office last aforesaid; also a tract of ninety arpens, equal to seventy-six and half acres, situated in township twenty-three north, range fourteen east, in the county of New Madrid, being survey number six hundred and eighty-six, made in favour of Joseph Mitchel, under Francis St. Mary, as will appear by reference to said survey, recorded in book B, page two hundred and twenty-one, in the office last aforesaid; also one other tract containing eighty-five acres and seven hundredths of an acre, confirmed to Joseph Mitchel, under Joseph Payne, situated in township twenty-one north, range fourteen east, in the county of New Madrid, by certificate numbered one thousand and fifty-one of confirmation, in the office last aforesaid; also a tract of land containing two hundred arpens, equal to one hundred and seventy acres and fourteen hundredths of an acre, situated in township twenty-seven north, range thirteen east, in the county of Scott, being survey number four hundred and thirty-four, made in favour of Joseph Mitchel, under John Robertson, as will appear more fully by reference to said survey, recorded in book B, page one hundred and ninety-seven, in the office last aforesaid; also a tract of four hundred arpens, equal to three hundred and forty acres and twenty-eight hundredths of an acre, and situated in township twenty-seven north, range seventeen east, in the county of Scott, being survey number one thousand and ninety-six, made for Richard Jones, as will appear by reference to said survey, recorded in book B, pages two hundred and sixty-two and two hundred and sixty-three, in the office aforesaid; also a tract of

two hundred arpens, equal to two hundred and seventy acres and four hundredths of an acre, situated in township twenty-seven north, range thirteen east, in the county of Scott, being survey number six hundred and thirty-three, made in favour of John Tannehil, as will appear to said survey, recorded in book B, page two hundred and twelve, in the office last aforesaid; also a tract of land, being two-thirds of a tract of the northern part of a tract of land of four hundred arpens, equal to three hundred and forty acres twenty-eight hundredths of an acre, situated in township twenty-seven north, range thirteen east, in Scott County, being survey number six hundred and twenty-six, made in favour of David Trotter, as will appear by reference to said survey, recorded in book B, page two hundred and eleven, in the office aforesaid; also a tract of two hundred arpens, French measure, situated in the county of Cooper, being the same tract of land included in a location made by Robert McCay, a legal representative of Louis Coignard, legatee of Claud Joseph Gonett, in *a* virtue of a certificate number four hundred and thirty-five, issued by Frederick Bates, recorder of land-titles, dated August 18th, eighteen hundred and eighteen, as will more fully appear by reference to said location, entered as number two thousand nine hundred and twenty-five, and of *a* class number five hundred and forty-one, and duly recorded in the record-book of New Madrid locations, page three hundred and sixty-four, in the office of the surveyor or the United States, at St. Louis; also a tract of six hundred and forty acres, situated in township forty-eight north, range fifteen west, in the county of Cooper, being survey number two thousand eight hundred and seventy-four, made in favour of Francis Foisey, or his legal representatives, and located by virtue of a New Madrid certificate, number four hundred and nine, as will appear by reference to said survey, recorded in book A, page thirty-nine, in the office last aforesaid; also a tract of two hundred and forty-three acres and eighty-five hundredths of an acre, situated in township forty-eight north, range fifteen west, in the county of Cooper, being survey number two thousand eight hundred and seventy-five, made in favor of John B. Racine, or his legal representatives, by virtue of a New Madrid certificate, number four hundred and forty-one, as will appear by reference to said survey, recorded in book A, page thirty-seven, in the office last aforesaid; also a tract of one hundred and sixty acres, of land, situate in fractional township number forty-eight north, range fourteen west, so as to include the north-west quarter of section thirty on the south side of the Missouri River, in the county of Cole, which tract was located by Robert McCoy, on the twenty-eighth day of January, eighteen hundred and nineteen, as the legal representative of Charles Bowman, in virtue of a New Madrid certificate issued by Frederick Bates, recorder of land-titles, in favour of Charles Bowman, or his legal representatives, and numbered four hundred and twenty, dated eighteenth August, eighteen hundred and eighteen, as will appear by said location, entered and recorded as number two thousand eight hundred and seventy-two, class four hundred and twenty-five, in the book of New Madrid locations, pages three hundred and one and three hundred and two, in the office last aforesaid; also a tract of land consisting of the west half of a tract of six hundred and forty acres, situated in township fifty-two north, range sixteen west, so as to include section number fifteen, in Howard County, which tract of six hundred and forty acres was located by Robert McCoy, on the (25) twenty-fifth day of April, eighteen hundred and seventy-three, by virtue of a New Madrid certificate, issued by Frederick Bates, recorder of land-land titles, in favour of Francis Millet, or his legal representatives,

number four hundred and six, and dated the eighteenth of August, eighteen hundred and eighteen, as will appear by reference to said locations, entered and recorded as number twenty-nine hundred
400 and two, in the record-book of New Madrid location, page three hundred and eighty-four, in the office last aforesaid; also a tract of land containing three hundred and twenty acres, being the east half of a tract of six hundred and forty acres, situated in township forty-eight north, range fourteen and fifteen west, in the counties of Cooper and Co'e, being survey number twenty-eight hundred and seventy-three, made in favour of Joseph Legrand, or his legal representatives, by virtue of a New Madrid certificate, as will appear by reference to said survey, recorded in book A, page thirty-eight, in the office last aforesaid; also a tract of land containing two hundred and forty arpens, equal to two hundred and four acres sixteen hundredths of an acre, situated in township fifty north, range sixteen west, in the county of Howard, being survey number twenty-nine hundred and seventeen, made in favour of Ambrose Dumay, or his legal representatives, by virtue of a New Madrid certificate, number four hundred and forty-five, as will appear by reference to said survey, recorded in book A, page one hundred and fourteen, in the office last aforesaid; also a tract of three hundred and twenty acres, being the west half of section seventeen, in township twenty-nine north, range fourteen east, in the county of Scott, located by Robert McCay by virtue of a New Madrid certificate, number four hundred and seven, dated eighteenth of August, eighteen hundred and eighteen, issued by Frederi'k Bates, recorder of land-titles, in favour of Hyacinth Berthoaum, or his legal representatives, as will appear by said location, duly recorded in the record-book of New Madrid locations, page three hundred and sixty-five, in the office last aforesaid; also a tract of two hundred and forty acres, being the east half of a tract of land situated in township forty-eight north, range fifteen west, in Cooper County, being survey number twenty-eight hundred and seventy, made for Andrew Godair, or his legal representatives, by virtue of location under a New Madrid certificate, number four hundred and three, as will appear by a reference to said location and survey, recorded in book A, page forty, in the office last aforesaid; also a tract of land containing one hundred and twenty-seven acres and sixty hundredths of an acre, being the west half of a tract of *a tract of* two hundred and fifty-five acres and twenty-one hundredths of an acre, surveyed for Alexander Sampson, or his legal representatives, by virtue of New Madrid certificate number three hundred and ninety-three, situated in township forty-eight north, range sixteen west, in the county of Cooper, being survey number twenty-eight hundred and sixty-nine, as will appear by reference to said survey, recorded in book A, page thirty-seven, in the office last aforesaid; also a tract of land containing six hundred and forty acres, situated in townships forty-six and forty-seven north, range six east, in the county of St. Louis, being survey number twenty-seven hundred and twenty-nine, made in favour of Anthony Bowman, or his legal representatives, by virtue of a New Madrid certificate, number three hundred and sixty-nine, as will appear by reference to said survey, recorded in book A, page eighty-nine, in the office aforesaid, the said land being originally granted and confirmed to the said Bowman, and the same as designated by number one hundred and four on the inventory of the real estate of the said Joseph Michell, filed in said cause; also a tract of land containing six hundred and forty acres, situated in township forty-six north, range six east, in the county of St. Louis, being survey twenty-six hundred and eighty-nine, made for John Dominique, or his

legal representatives, located by virtue of a New Madrid certificate, number two hundred and eighty, as will appear by reference to said survey, recorded in book A, pages one hundred and eight and one hundred and nine, in the office aforesaid, the said land being originally granted and confirmed to said John Dominique, or his legal representatives, designated by number one hundred and fifteen on the inventory of the said real estate of the said Joseph Mitchel, filed in said cause; also a tract of land containing four hundred and eighty acres, situated in township forty-six north, range six east, in the county of St. Louis, located by virtue of New Madrid certificate number three hundred and thirty-three, dated twenty-sixth of September, eighteen hundred and seventeen, in favour of John Baptist Thibeault, or his legal representative, as will appear by reference to said location, recorded in the record-book of New Madrid locations, page two hundred and seventeen, in the office aforesaid, being the same originally granted & confirmed to John Baptiste Thibault, designated as one hundred and twenty-three on the inventory of the real estate of the said Joseph Mitchel, filed in said cause; also a tract of land containing three hundred and twenty acres, being a part of *a part of* a tract of land of four hundred and eighty acres, situated in township fifty north, range sixteen west, in the county of Howard, located twentieth November, eighteen hundred and eighteen, and surveyed for Joseph Dumay, or his legal representatives, by virtue of a New Madrid certificate, number four hundred and five, as will appear by reference to said survey, number twenty-eight hundred and twenty-two, recorded in book A, page sixty-eight, in the office aforesaid, being the same originally granted and confirmed to Joseph Dumay, and designated by number one hundred and twenty-two on the inventory of the real estate of the said Joseph Mitchel, filed in said cause. And it was further ordered, adjudged, & decreed by said court in said cause that all the aforesaid tracts of land and town lots were thereby transfer'ed, conveyed to, and vested in the said Matteo Bogiolo, as fully and completely at law and in equity as the same, or the title thereto, was vested in the said Joseph Mitchel during his life-time, or his heirs or his legal representatives since his decease. And it was further adjudged and decreed that the said Robert McCoy and the other said defendants should execute to the said Matteo Bogolio such deed or deeds of conveyance, with special war'antee only, as might be necessary and proper to convey to and vest in the said Matteo Bogliolo all the right, title, claim, and interest of the said Robert McCoy, or of the other said defendants, in and to all the above-described lots, lands, ten*a*ments, and her*a*dit*a*ments, with the appurtenances, and which was vested in the said Joseph Mitchell during his life-time, or in his heirs or legal representatives since his decease, and as for the title thereto is claimed by said defendants, or any of them, directly or indirectly from or under the said Joseph , or those under whom the said Joseph Mitchel claimed or held the said lands, or any part thereof. And it was further adjudged and decreed by the said court in said cause that the said Robert McCay and the said other defendants should be, and were thereby, discharged from all claims, demands, or suits whatever, other than those adjudged against them by the said decree, on the part of the said Matteo Bogliolo. And it was further adjudged and decreed by the said court in the said cause that the costs accrued and incur'ed in this cause shall be ascertained and taxed by the proper officer, so as to include the costs incurred in the circuit court of Cape Girardeau County, the former court of chancery of this State, the supreme court, and the court first aforesaid, and that one moyety of the whole amount of said

cost so taxed and ascertained should be chargeable to and paid by the said Matteo Bogliolo, and that the other moiety be chargeable to and payable by the said defendant, Robert McCay, and that the amount of
401 the said taxed costs as shall have been already paid by either of the said parties shall be taken and credited as so much paid upon and in deduction of the amount so to be paid by said Matteo Bogliolo and said Robert McCoy, respectively, and further, that execution should be issued for the costs, to be paid by the parties respectively, according to the taxation and ascertainment to be made as aforesaid:

Now, therefore, I, Robert McCoy, have granted, bargained, and sold, transferred and conveyed, and by these presents do grant, bargain, sell, transfer, and convey, unto the said Matteo Bogliolo, his heirs and assigns, for and in consideration of the premises and in pursuance of said decree, *of* the right, title, and interest and claim of the said Robert McCoy, and the said other defendants, in and to all the above described and mentioned lots, lands, tenaments, and heraditiments, with the appurtenants thereof, as fully as the same was invested in the said Joseph Mitchell at the time of his death, to have and to hold the said town-lots, lands, tenaments, and heradit'ments, with the appurtenants thereof, to him, the said Matteo Bogliolo, heir and administrator afor'said, and to his heirs and assigns, forever; and the said Robert McCoy doth covenant and agree to and with the said Matteo Bogliolo, his heirs and assigns, that he will well and truly warrant and defend the same from the lawful claim or claims of all persons claiming the same through, by, or under him or the other defendants, so far as their claims are or may be derived by inheritance from the said Joseph Mitchell, deceased, and no further. It is further understood, that 'asmuch as by the terms of the agreement between the said Robert McCay and Matteo Bogliolo, upon which the aforesaid decree of court was founded, it was stipulated that all lands belonging to the estate which previous to that time had been sold by the said Robert McCoy should not be taken into the division; and whereas the said Robert McCoy is not in possession of sufficient information to enable himself to say some one or more of the tracts of land men ioned in this deed may not have been sold by him previous to the date of the agreement aforesaid: Now, to avoid all difficulty and to guard against the law enacting a penalty for selling and conveying lands more than once, it is agreed by the parties to this deed that if it shall hereafter be discovered that any of the lands her'in described was sold by the said McCoy previous to the date of said agreement, the same is to be corrected by amicable arrangement between the parties, in conformity with the conditions contained in the aforesaid agreement.

In testimony whereof the said Robert McCoy has hereunto subscribed his name and affixed his seal, at New Madrid, the third day of May, A. D. 1834.

ROBERT McCAY. [SEAL.]

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on this third day of May, in the year of our Lord eighteen hundred and thirty-four, before me, the undersigned, clerk of the circuit court of the county of New Madrid aforesaid, came Robert McCay, who is pe'sonally known to me to be the person whose name is subscribed to the foregoing instrument of writing as having executed the same, and acknowledged the said instrument to be his act and deed for the purposes ther'in mentioned. Taken and certified the day and year afor'said.

[L. S.] ALFR. DELARODARIE, *Clerk.*

Received for record, recorded and examined the foregoing on the 20th day of March, A. D. 1844.

ALFR. DELARODARIE, *Clerk.*

STATE OF MISSOURI,
County of New Madrid, ss:

I, John A. Mott, clerk of the circuit court and ex-officio recorder in and for the county and State aforesaid, do hereby certify that the above and foregoing is a full and complete transcript of the record of a deed, the certificates of acknowledgment and record of same, from Robert McCoy, executor of the last will and testament of Joseph Michel, deceased, to Matteo Bogliolo, as fully as the same now is or appears of record in my office.

In testimony whereof I, John A. Mott, clerk and recorder as aforesaid, hereunto subscribe my name and affix the seal of said court, at office in New Madrid, the 29th day of November, eighteen hundred and seventy.

[SEAL.] JOHN A. MOTT,
Clerk and Ex-officio Recorder.

[5-ct. int. rev. stamp, canceled.]

D, No. 1.—*Matteo Bogliolo to Wm. W. Gitt—Deed.*

Know all men by these presents that I, Matteo Bogliolo, of the county of New Madrid, in the State of Missouri, do, on this second day of March, in the year of our Lord one thousand eight hundred and forty-nine, for and *and* in consideration of one hundred and fifty dollars, to me now and heretofore in hand paid by William W. Gitt, of Cape Giradeau County, Missouri, grant, bargain, and sell unto William W. Gitt, his heirs and assigns forever, all the following described tracts of lands in Missouri, with all the appurtenances thereto belonging, known and described as follows, to wit: All the land located in New Madrid certificate four hundred and twenty-three, and being survey No. two thousand eight hundred and fifteen, in the name of Peter Perron or his legal representatives; one other tract located on New Madrid certificate No. four hundred and twenty-five, being survey No. two thousand seven hundred and eighty-seven, in the name of Battice Grinard or his *his* legal representatives, containing each two hundred arpens.

And all the following-described tracts of land, being situate, lying, and being in Arkan's, to wit, one tract containing two hundred arpens, located or relocated on New Madrid location-certificate number four hundred and sixty-seven, (467,) and being survey number two thousand nine hundred and three, (2903,) in the name of Francis Langlois or his legal representatives; and the other contains two hundred arpens, and is number of certificate four hundred and sixty-eight, and survey No. twenty-nine hundred and forty-two. In testimony whereof I have hereto set my hand and seal.

MATTEO BOGLIOLO. [SEAL.]

In presence of—
PHILIP C. MOREHEAD.
GEORGE MILLER.

STATE OF MISSOURI,
City & County of St. Louis, ss:

Be it remembered that on this 31st day of August, A. D. 1871, before me, James S. Garland, a commissioner for the State of Arkansas, at

the city of St. Louis, aforesaid, duly commissioned and qualified and acting as such, personally appeared Philip C. Morehead, one of the subscribing witnesses to the foregoing deed, to me personally known, who, being by me first duly sworn, on his oath stated that he saw Matteo Bogliolo, grantor in said deed, subscribe and seal said deed, on the day of its date, for the *the* uses, purposes, and consideration therein
402 expressed; and that he and George Miller, the other subscribing witness, subscribed the same as attesting witnesses, at the request of the said grantor.

In testimony whereof I have hereto set my hand and affixedmy official seal, at said city of St. Louis, the day and year last aforesaid.

[L. S.] J. S. GARLAND,
Commissioner for Arkan's at St. Louis City, Missouri.

STATE OF MISSOURI,
County of St. Louis, ss:

Be it remembered that on this 31st day of August, 1871, before the undersigned, a notary public within and for the county and State aforesaid, came Philip C. Morehead, who is personally known to me to be the same person whose name is subscribed to the foregoing deed as a witness, who, being by me duly sworn, on oath stated that Matteo Bogliolo, whose name is subscribed to said deed, as a party thereto, is the person who executed said deed; that he signed, sealed, and acknowledged the same to be his act and deed, for the purposes therein menstioned, in his (witness') presence, and that thereupon he, said witness, subscribed his name thereto, at the request of said Bogliolo, as a witness to the execution thereof.

In testimony whereof witness my hand and official seal hereto set the day and year last aforesaid.

[L. S.] J. S. GARLAND,
Notary Public, St. Louis County, Mo.

Know all men by these presents that I, Matteo Bogliolo, late of New Madrid County, Missouri, do, for and in consideration of the sum of fifty dollars, lawful money of the United States, to me in hand paid at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, same being paid to me by William W. Gitt, of Cape Girardeau County, Missouri, and in consideration of divers releases, and quitclaims from said William W. Gitt to me, said Matteo Bogliolo, to and for various tracts of land in Missouri, there is hereby, bargained, sold, and quitclaimed unto William W. Gitt, his heirs and assigns forever, free from encumbrance, save and except the occupation or possession by any adverse claimant, and all arrearages of taxes, interest, and costs on said lands, there is now hereby sold and conveyed to the said William W. Gitt, his heirs and assigns, all the following several tracts of land in the State of Arkansas, *desegnid* by surveys Nos. two thousand four hundred and five, (2405,) two thousand four hundred and six, (2406,) two thousand four hundred and twenty-two, (2422,) two thousand four hundred and twenty-four, (2424,) two thousand four hundred and twenty-five, (2425,) two thousand four hundred and twenty-six, (2426,) two thousand three hundred, (2300,) two thousand three hundred and two, (2302,) two thousand three hundred and nine, (2309,) two thousand three hundred and ten, (2310,) two thousand three hundred and eleven, (2311,) two thousand three hundred and twenty-eight, two thousand three hundred and forty-six, and

& recorder, for the county and State aforesaid, do hereby certify that the foregoing contains a true and complete copy of and from a deed of conveyance filed in my office for record on the 10th day of November, A. D. 1870, and recorded in book H, pages 611 & 612.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office, this 12th day of November, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clk., &c.*

(Indorsed:) 6244. D, No. 2. Matteo Boglolio vs. Wm. W. Gitt. Deed for ⅛ of Arkansas. Filed Oct. 6, 1874. J. R.

EXHIBIT D.—*Power of atty. from Joseph Michel to William W. Gitt.*

Know all men by these presents that I, Joseph Michel, of Dyer County and State of Tennessee, do on this the twenty-first day of December, in the year of our Lord one thousand eight hundred and forty-six, nominate, constitute, and appoint William W. Gitt, of Cape Gerardeau County, Missouri, my true and lawful agent & attorney in fact, for me and in my name, though at the entire cost, risk, and expense of William W. Gitt, my agent, to demand, claim, grant, sell, and convey, receive purchase-money and receipt for the one-half thereof, which to him in virtue of his services in collecting, demanding, suing for, shall belong; the other one-half the purchase shall place to my credit in any of the branches of the Bank of Missouri, said agent having the sole, entire, & absolute authority to remise, release, quitclaim, and convey all my right, title, and demand as well as to bargain and sell the same in all the following-described real estate to which I am entitled as heir of Joseph Michel, deceased, and as hr. of Napolean Michel, deceased, and also to sell, on the same terms and with the same authority, my interest, claim, and demand in the personal property of the said Joseph and Napolean Michel, deceased, and to take possession of all such property and every instrument of writing having relation thereto, and the terms and conditions above named shall be the terms and conditions applicable to every article of personal property, and every tract of land in Missouri and Arkansas founded on any Spanish grant, or concession, or on any New Madrid certificate of relocation. As well as recollected, the following are a part of the tracts of lands: One tract in Arkansas containing one hundred and sixty acres, founded on New Madrid certificate number four hundred and sixty-seven, (467,) and being New Madrid survey twenty-nine hundred three, (2903;) and the following lands in Missouri: one tract, containing one hundred and sixty acres, in township thirty north, in range thirteen east, founded on New Madrid certificate four hundred and forty-four, (444;) one tract containing one hundred and sixty acres, in township forty-eight north, in range sixteen west, founded on New Madrid certificate four hundred and forty three; one tract containing two hundred and four acres and sixteen hundredths of an acre, in township fifty-one north, in range thirty-two west, being New Madrid survey 2916, and founded on New Madrid certificate four hundred and thirty-three; one other tract of land, in township forty-six north, in range six east, containing six hundred and forty acres,
404 founded on New Madrid certificate two hundred and eighty, (280,) and being survey 2689; one other tract, in township fifty-one north, in range sixteen west, containing one hundred and sixty acres, founded on New Madrid certificate two hundred and twenty-two, (222;) one tract in township forty-six north, in range six east, containing four hundred and eighty acres, founded on New Madrid certificate three hun-

dred and thirty-three,' (333,) being survey 2656; one tract in township forty-six north, in range 6 east, containing six hundred and forty acres, founded on New Madrid certificate number three hundred and sixty-nine, and being survey 2979; one tract containing 480 acres, in township 48 N., in range 15 west, being certificate 403; one other tract, containing 480 acres, in township 50 N., in range 16 west, being New Madrid certificate 405; one other tract, in township fifty two N., in range sixteen west, containing 640 acres, founded on New Madrid claim 406, survey 2902; one other tract in township 29 N., in range 14 east, containing 640 acres, founded on certificate 407, being survey 2877; and one tract containing 640 acres, founded on New Madrid certificate 408, being survey 2871, in twp. 48, range 16 W.; one tract containing 640 acres, in township 48 N., R. 15 west, founded on New Madrid certificate 409 & survey 2874; and one tract containing 640 acres, founded on New Madrid certificate 410, in township fifty-two north, in range 19 W.; one tract containing 640 acres, in township 53 N., range 1 west, founded on New Madrid certificate 411 & survey 2812; one tract containing 640 acres, in *township section* section 35, in township 50 north, in range 16 west, being certificate No. 412; one tract containing 640 acres, in township 53 N., R. 20 west, founded on New Madrid certificate 413, and survey ; one tract in twp. 49 & 50 N., in range 15 west, being New Madrid certificate 414; and one tract in twp. 51 N., range 26, containing 640 acres, founded on New Madrid certificate 418; and one tract in township 48 N., R. 14 & 15 W., containing 640 acres, founded on New Madrid certificate of relocation 419; and one tract in T. 48 N., R. 14 west, containing 160 acres, being certificate 420; one other tract, in township 51 N., in range 32 west, in Clay County, Missouri, containing two hundred and four acres and sixteen hundredths of an acre, being New Madrid certificate 433 and survey 2916; and $255\frac{20}{100}$ acres of land in township 48 N., range 16 west, being certificate 393; one tract in township 51 N., in range 17 west, containing 160 acres, being certificate 376 and survey 2789; and all the lands founded on New Madrid certificates 377, No. 426, No. 474, No. 17, 18, & 19, 20; and the tract containing 640 acres, founded on New Madrid certificate 343, in township 51 N., in range 17 west; and a tract containing $340\frac{27}{100}$ acres, in township 51 N., in range 17 west, founded on New Madrid certificate 363 & survey 2724; and a tract containing $217\frac{27}{100}$ acres, in township 57 N., range 5 west, founded on New Madrid certificate 388; and a tract of land founded on New Madrid certificate 161, in township 45 N., in range 7 east; and a tract of land containing 640 acres, being section 10, in township 52 N., range 17 west, being certificate number 27; hereby ratifying and confirming this instrument the date above, and binding myself not to revoke it within three years from this date, as witness my hand and seal the day and year above written.

JOSEPH MICHEL. [SEAL.]

In no case shall any other than quitclaim deed be made, and said Joseph Michel is not in any way or on any account to be liable for any loss.

Witnesses:

O. N. BUSH.
JOHN D. FOOLEY.

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on this twenty-second day of December, in the year of our Lord one thousand eight hundred and forty-six, before me,

Alphonse Delaroderie, clerk of the circuit court for the county of New Madrid, in the State of Missouri aforesaid, came Obadiah N. Bush, of Rochester, in the State of New York, who was proved by Ezekiel Wilcox and John H. Gibbons, examined before me on oath, to be the person whose name is subscribed to the foregoing instrument of writing, as a subscribing witness thereto, and made oath that Joseph Michel, whose name is subscribed to the said instrument of writing as grantor, is the real person who executed the same as a party thereto; that the said Joseph Michel did execute the same, and subscribed, sealed, and delivered the same in his presence, and acknowledged the same to be his act and deed for the purposes therein mentioned, and that he, the said Obadiah N. Bush, subscribed the said deed as a witness thereto in the presence and at the request of the said Joseph Michel.

[SEAL.] O. N. BUSH.

In witness whereof I have hereunto subscribed my name and affixed the seal of said circuit court at office, in the town of New Madrid, in the county of New Madrid aforesaid, the day and year first above written.

ALP. DELARODERIE, *Clerk.*

STATE OF MISSOURI,
County of Cape Girardeau, ss:

Robert Brown, clerk of the circuit court and ex-officio recorder within and for the county aforesaid, do hereby certify that the within and foregoing instrument of writing, signed by Joseph Michel as grantor, was filed for record in my said office, on the 18th day of January, 1847, and is truly recorded in second book M, pages 19, 20, 21, & 22.

Given under my hand and the seal of our said circuit court at office, in Jackson, county and State aforesaid, this 19th day of January, A. D. 1847.

[SEAL.] ROBT. BROWN,
Clk. & Ex-officio Recorder.

Filed for record May 24th, 1847.

S. D. BARLOW, *Recorder.*

STATE OF MISSOURI,
County of St. Louis:

I, the undersigned, recorder for said county, certify the foregoing to be a true & complete copy of an instrument of writing executed by Joseph Michel to William W. Gitt, of the certeficate & proof of acknowledgment of the certificate of recorder of Jackson County, Mo., and of the date of filing thereof, as fully as the same remains of record in my office, in book K 4, page 245.

Witness my hand and official seal this the 30th day of May, A. D. 1870.

[SEAL.] JULIUS CONRAD, *Recorder.*

[5-ct. int. rev. stamp canceled.]

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and fore-

405 going instrument of writing was filed for record in my office at o'clock, minutes m., on the 25th day of June, A. D. 1870. and the same is now duly recorded in record-book H, page' 570, '71, '72, & '73.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

(Indorsed:) Joseph Michel to William W. Gitt. Book K 4, page 245. $1.75.

EXHIBIT E.—*Power of atty. from Stephen Michel to Wm. W. Gitt.*

Know all men by these presents that Stephen alias Etienne Michel, son, heir, and legatee of Joseph Michel, deceased, late of New Madrid, Missouri, do, on the twenty-seventh day of February, in the year of our Lord one thousand eight hundred and forty-seven, nominate and appoint William W. Gitt, of Jackson, Missouri, to compromise, demand, and obtain, to sell, convey, all at said agent's own risk and expense, all my right, title, and claim in and unto any and all of the following-described lands in the State of Missouri: One tract containing 160 acres, in township thirty north, in range thirteen east, founded on New Madrid certificate four hundred and forty-four; and the following tracts of land, containing each one hundred and sixty acres, to wit, all the lands located by virtue of New Madrid certificates numbered fourteen and sixteen, in township' forty-four and forty-five north, in range seven east; and all the lands located in virtue of New Madrid certificates seventeen, eighteen, nineteen, twenty, and twenty-one, thirty-six, fifty-one, seventy-one, seventy-seven, seventy-eight, and seventy-nine, and ninety; and all the land located in townships forty-five and forty-six north, and in range seven east, located in virtue of New Madrid certificate number ninety-four; and all the lands located in virtue of New Madrid certificates number one hundred and three, one hundred and four, and one hundred and five, and one hundred & nineteen, two hundred and nineteen, two hundred and twenty-two, and three hundred and thirty-three, & two hundred and thirty-nine, two hundred and eighty, and three hundred and sixty-nine, and two tracts of land in township fifty-one north, in range seventeen west; one founded on New Madrid certificate numbered three hundred and forty-three, and the other on certificate three hundred and sixty-three, which last-mentioned tract contains three hundred and forty acres and twenty-seven hundredths, and is in the name of Samson Archer; and all and sengular the following as well as the foregoing, the lands located in township fifty-one north, in range seventeen west, by New Madrid certificates numbers three hundred and thirty-one and three hundred and seventy-six; and all the following lands, containing six hundred and forty acres, founded on New Madrid certificates four hundred and four, four hundred and six, four hundred and seven, four hundred and eight, four hundred and nine, four hundred and ten, four hundred and eleven, four hundred and twelve, four hundred and thirteen, and four hundred and seventeen, which last lies in Arkansas, in township five north, and in range sixteen west, and is survey number two thousand nine hundred and twenty-nine, in the name of Ignace Hunat; and all the land located in virtue of New Madrid certificates number four hundred and eighteen, four hundred and nineteen, four hundred and twenty, four hundred and twenty-one, four hundred and twenty-two, four hundred and twenty-three, four hundred and twenty-four, and four hun-

dred and twenty-five, all in the State of Missouri, and the last-mentioned tract lies in township fifty-seven north, and in range four west, and contains one hundred and seventy thirteen hundredths acres, and is in the name of John B. Guinard; together with all the lands located with New Madrid certificates numbers four hundred and three, four hundred and thirty six, four hundred and forty-one, and four hundred and forty-two, and four hundred and forty-three; also all the lands in the name of F. B. Cornoisier, founded on New Madrid certificate four hundred and thirty-three, containing two hundred and four and sixteen hundredths acres, in township fifty-one north, and in range thirty-two west, in Clay County, Missouri, being survey two thousand nine hundred and sixteen; and all other lands not hereinbefore mentioned, on the same terms, the authority to my said agent and attorney in fact, William W. Gitt, to which I am in anywise entitled in Arkansas, Missouri, & Indiana, as derived from the estate of Joseph Michel, deceased. The time which my said agent shall be allowed for the final adjustment of all the within-mentioned compromises, sales, suits for or recoveries of lands, and obtaining all papers in relation to, shall be three years from the twentieth day of last December, and for a remuneration to said agent for expenses incurred, risks and costs, out of any and all such sales, he shall be entitled to the one-half, and of all lands discovered and adjusted the one-half of all my right and title shall to him belong, and the other one-half he is to furnish me with, or pay me or my heirs for, within the limited time of this instrument of writing.

In testimony whereof I have, at my residence, hereunto set my hand and seal as ratifying and confirming all the acts of my said agent for me and in my name.

STEPHEN MITCHELL. [SEAL.]

In presence of us, witnesses—
P. N. MAN.
JOSEPH B. COFIELD.

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on this the first day of March, in the year of our Lord one thousand eight hundred and forty-seven, before me, Alphonse Delaroderie, the undersigned, clerk of the circuit court of New Madrid County, Missouri, personally came Joseph B. Cofield, who is personally known to me to be the same person whose name is subscribed to the within instrument of writing and power of attorney as a subscribing witness thereto, also on his oath, duly administered, says and proves that he is personally acquainted with Stephen Michel; that he, Stephen Michel, the person whose name, and the person who did subscribe his name to the within instrument of writing as the principal and as party thereto, is the same person who executed it; that he did execute, and he heard him acknowledge it, for the uses, purposes, and considerations therein contained; and that he, said witness, subscribed his name thereto as a witness thereof, and that said Stephen Michel signed his name thereto as a party and the principal thereto.

Sworn to and subscribed by—

JOSEPH B. COFIELD.

To all of which I certify under my hand and the seal of said court, it

being my official seal, the day and year above, at my office in New Madrid, Missouri.

[SEAL.] ALP. DELARODERIE,
Clerk.

Filed and recorded May 20th, 1847.

S. D. BARLOW,
Recorder.

STATE OF MISSOURI,
County of St. Louis:

I, the undersigned, recorder for said county, certify the foregoing to be a full and complete copy of an instrument of writing executed by Stephen Mitchell to William W. Gitt, of the certificate and proof of acknowledgment, and of the date of filing and recording thereof, as fully as the same remains of record in my office in book H 4, page 470.

Witness my hand and official seal this the 30th day of May, 1870.

[SEAL.] JULIUS CONRAD,
Recorder.

[5-cent int. rev. stamp, canceled.]

406 *Certificate of record.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book H, pages 573, '4, '5, & '6.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

(Indorsed:) Stephen Mitchell to William W. Gitt. Book H 4, page 470. Copy, $1.50.

EXHIBIT F.—*Power of atty. from Rosalie Huston to Wm. W. Gitt.*

Know all men by these presents that I, Rosalie Huston, of the State of Louisiana and parish of Concordia, do, for divers causes by me esteemed good & sufficient, nominate, appoint, constitute, and confirm William W. Gitt, *he* to be my true and lawful agent and attorney in fact, for me and in my name to demand, sure for, recover, take possession of, and in my name to compromise, bargain, sell, and convey, receive and receipt for, the consideration money of and for the following lands or tracts of land, or any one of them, or all of them, and to make to the purchaser or purchasers a quitclaim-deed for all my right and title in and unto the same, to wit:

One tract in Arkansas, containing six hundred and forty acres, in township five north, in range sixteen west, being survey 2929, and all and every other tract of land in Arkansas as to which I may in anywise be entitled, founded on the Spanish grant or New Madrid certificate of relocation; and the following lands in Missouri: one tract in township thirty north, in range thirteen east, containing one hundred and sixty acres, founded on New Madrid certificate four hundred and forty-four, being survey 2919; one other tract, containing 170$\frac{13}{100}$ acres in township 48 N., in range 16 west, founded on New Madrid certificate 443 and sur-

vey 2927; one other tract, containing 640 acres, in township forty-four N., range 11 west, founded on New Madrid certificate 428, and being survey 2863; one other tract containing $204\frac{16}{100}$ acres, in township 51 N., in range 32 west; one other tract, containing 240 acres, in township 50 north, in range 16 west, founded on New Madrid certificate 445 and on survey 2917; one other tract, in section 17, township 52 N., range 17 west, containing $204\frac{16}{100}$ acres, founded on New Madrid certificate 442, and being survey 2945; one other tract, containing 640 acres, in township 48 north, range 14 & 15 west, founded on New Madrid certificate 419, and being survey 2873; one tract, containing 640 acres, in township 52 N., range 19 west, founded on New Madrid certificate No. 410, and being survey 2787; one other tract, containing $168\frac{43}{100}$ acres, in township 48 N., range 16 west, founded on New Madrid certificate 432 and survey 2878; one other tract, in township 58 N., range 6 west, containing $107\frac{33}{100}$ acres, being New Madrid certificate No. 426 and survey 2816; one other tract, containing 640 acres, founded on New Madrid certificate 408, and being survey 2871, in township 48 north, in range 15 west; one other tract, containing 640 acres, in township 52 N., range 16 west, in section 15, founded on New Madrid certificate 405, and being survey 2822; one other tract, containing 480 acres, in township 48 N., range 15 W., located in virtue of New Madrid certificate 403, and being survey 2870; one other tract, founded on New Madrid certificate 409, being survey 2874, containing 640 acres, in township 48 north, range 15 west; one other tract, containing $170\frac{13}{000}$ acres, in township 57 N., R. 4 west, founded on New Madrid certificate 425 and survey 2786; one other tract, containing 160 acres, in township 51 N., R. 17 W., founded on New Madrid certificate 376 and survey 2789; and one other tract, containing 160 acres, on certificate 377, being S. 2756; one other tract, founded on New Madrid certificate 222; one other tract, founded on New-Madrid certificate 333; one other tract founded on New Madrid certificate 369; one other tract founded on New Madrid certificate 280, lying in township 46 N., R. 6 east, being survey 2689; one other tract, containing $340\frac{27}{100}$ acres, in township 51 N., R. 17 west, being founded on New Madrid certificate 363 and survey 2724; and three other tracts, founded on New Madrid certificates 420 & 421 & 422, and one other tract, located in township 53 N., R. 20 west, founded on New Madrid certificate 413 and on survey 2823; and the lands located in virtue of New Madrid certificates 407 and 404 and 411, 412, and 416, and 387, & 17, 18, 19, & 20 and 467, and New Madrid certificate 418, and the lands or land in lieu; hereby ratifying and confirming all the acts of my said agent in bargaining and conveying for me and in my name any one or all of the tracts of land referred to hereinbefore or hereafter, together with any other and all lands and interests in lands to which I may or am or shall be entitled in anywise, in law or equity, in Arkansas, Missouri. And I do furthermore grant, sell, and convey unto him, Wm. W. Gitt, my said agent, one equal one-half of all such lands, for his trouble & expense in demanding, suing for, or otherwise recovering any such lands, or in any manner obtaining the same, he, the said agent, to keep me free from all lawsuits and risks and other expenses.

In testimony whereof I have hereunto set my hand and seal on this the tenth day of February, in the year of our Lord one thousand eight hundred and forty-seven.

ROSALIE HUSTON. [SEAL.]

Witnesses:
LOUIS P. FAY.
W. C. HOLTRE.

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on this sixteenth day of February, in the year of our Lord one thousand eight hundred and forty-seven, before me, Richard Barkley, the undersigned clerk of the county court of New Madrid County, Missouri, personally came and appeared at my office, in New Madrid, Louis P. Fay, who is personally known to me to be the same person whose name is subscribed and who did subscribe his name to the within instrument of writing and power of attorney as a subscribing witness thereto, who, on his oath, duly administered, says and swears that he is personally acquainted with Rosalie Huston; that she is the person whose name is subscribed to the within instrument of writing as a party and the principal thereto; is the same person who executed it; that she did execute it, and he heard he' acknowledge it as a party thereto, and that she subscribed her name thereto as a party and the principal, and that he subscribed his name *name* thereto as a witness whereof.

(Subscribed) LOUIS P. FAY.

407 To all of which I certify under my hand and the seal of said court the day and year and place last above named.

[SEAL.] RICHARD BARKLEY, *Clerk.*

I, Alphonse DeLaroderie, clerk of the circuit court and ex-officio recorder for the county of New Madrid, in the State of Missouri, do hereby certify the foregoing deed of conveyance and power of attorney from Rosalie Huston to William W. Gitt to be duly recorded in book No. 17, pages 169 & 170 of New Madrid County records.

Given under my hand at office, in the town of New Madrid, this first day of March, 1847.

[NO SEAL.] ALP. DELARODERIE, *Clk.*

Filed and recorded May 24, 1847.

S. D. BARLOW, *Recorder.*

STATE OF MISSOURI,
County of St. Louis:

I, the undersigned, recorder for said county, certify the foregoing to be a true and complete copy of an instrument of writing executed by Rosalie Huston to William W. Gitt, of the certificate and proof of acknowledgment of the certificate of recorder of New Madrid County, Mo., and also of the date of filing and recording thereof, as fully as the same remains of record in my office in book H 4, page 501.

Witness my hand & official seal this 31st day of May, 1870.

[SEAL.] JULIUS CONRAD, *Recorder.*

[5-ct. int. rev. stamp canceled.]

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at o'clock, minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book H, page' 576, '77, & '78.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

(Indorsed:) Rosalie Huston to William W. Gitt. Book H 4, page 501. Copy. $1.75.

EXHIBIT G.—*Power of atty. from Antoine Lafont to Wm. W. Gitt.*

This deed, power of attorney, and instrument of writing, entered into on this the eighteenth day of February, in the year of our Lord one thousand eight hundred and forty-seven, in New Madrid County, Missouri, by the undersigned, Antoine Lafont, and to William W. Gitt, of Jackson, Cape Girardeau County, Missouri, witnesseth that for and in consideration of five dollars, lawful money of the United States, to him, the said Antoine Lafont, in hand paid before the ensealing and delivery of these presents, there is hereby sold, conveyed, and confirmed unto him, the said William W. Gitt, and to his assigns, one equal part or the one-half of all my right, title, interest, and demand, in law or equity, in all the following property and real estate in Missouri: One tract containing six hundred and forty acres, in township forty-nine & fifty north, and in range eighteen west, founded on New Madrid certificate number four hundred and seven, and being New Madrid survey number twenty-eight hundred and seventy-seven; one tract containing four hundred and eighty acres, in township forty-eight north, and in range fifteen west, and being number of New Madrid survey two thousand eight hundred and seventy; one other tract of land, containing six hundred and forty acres, founded on New Madrid certificate number four hundred and nineteen, and being New Madrid survey number two thousand eight hundred and seventy-three; one tract in township forty-eight north, in range fifteen west, containing six hundred forty acres of land, founded on New Madrid certificate number four hundred and eight, and being New Madrid survey number two thousand eight hundred and seventy-one; one tract of land containing six hundred and forty acres, founded on New Madrid certificate four hundred and nine, in township forty-eight north, and in range fifteen west, and being New Madrid survey number two thousand eight hundred and seventy-four; one tract containing one hundred and sixty acres, being the northwest fractional quarter-section of section thirty of township forty-eight north, and in range fourteen west; one tract containing six hundred and forty acres, in township fifty-two north, in range nineteen west, being New Madrid survey two thousand seven hundred and eighty-seven; one tract containing one hundred and seventy and thirteen hundredths acres, in township fifty-seven north, in range four west, founded on New Madrid certificate number four hundred and twenty-five; one tract founded on New Madrid certificate four hundred and forty-three, in township forty-eight north, in range sixteen west, founded on New Madrid survey number two thousand nine hundred and twenty-seven, containing one hundred and seventy and thirteen hundredths acres of land; one tract founded on New Madrid certificate number four hundred and forty-four, in township thirty north, in range thirteen east, in Cape Girardeau County, Missouri, containing one hundred and sixty ; four other tracts, containing one hundred and sixty acres each, founded on New Madrid certificates numbered seventeen, eighteen, nineteen, twenty, twenty-nine, thirty-six, fifty-one, seventy, eighty-two, and the lands located in virtue of New Madrid certificates ninety-four, one hundred and sixty-one, one hundred and seventy-

eight, in township forty-nine north, and in range sixteen west, and all the lands on New Madrid certificates, numbers one hundred and ninety-five, one hundred and ninety-six, and one tract of land in township fifty-one north, in range eighteen west, containing three hundred and fifty arpens, being part of a larger tract founded on New Madrid certificate number two hundred and nineteen, and located in the name of Peter Lusson; one other tract of land, in the name of Peter Gumay, in township fifty-one north, in range seventeen west, containing two hundred four and sixteen hundredths acres of land, founded on New Madrid certificate number three hundred and thirty-one; one tract of land containing three hundred and forty acres and twenty *twenty*-seven hundredths acres, in township fifty-one north, in range seventeen west, founded on New Madrid certificate number three hundred and sixty-three, located in *in* the name of Samson Archer; one tract containing two hundred fifty-five thirty hundredths acres of land, founded on New Madrid certificate three hundred and ninety-three, in the name of Alexander
408 Samson, together with all and singular the other lands and tenements, issues, remainders, and profits in Missouri, as derived by me, or to which I am entitled in law or equity from the estate of Joseph Michel, the wife of Joseph Michel, Napoleon Michel, Robert McCroy, and Rosalie McCroy, and any one and all of said estates. I, the undersigned, Antoine Lafont, do, for the following purposes, nominate, appoint, & confirm William W. Gitt, of Jackson, Missouri, *in* my true and lawful agent and attorney in fact, for me and in my name, to demand, sue for, take possession of all the lands in Missouri hereinbefore described, or to sell on any compromise, any of or all of the lands, and my titles, interest, demand therein, which the undivided one-half of I have herein and before conveyed, absolutely conveyed, to said William W. Gitt, and now my said agent, at his own risk, cost, and expense, for demanding, selling, conveying, and compromising, whichever made he may deem most advisable, my still remaining interest in said lands; and he, said agent, to pay to me, the undersigned, at my residence, the one-half of the proceeds, profits, and amount, for which any tract, or all the tracts, may or shall be sold for my title; and I also authorize my said agent to recover all the property, personal and real, for me and in my name, which I am not now in actual possession of, and for his trouble and expense he may retain the one-half of all such property, and deliver to me at my residence the other half, whether any such lands lie in Arkansas, Missouri, and Indiana, and whether any such personal property, slaves, or any other class of property, be found in any State of the United States, hereby authorizing my said agent to take possession of any instrument of writing relating to any personal or real estate in which I am interested. I bind myself not to revoke this power of attorney proportion of this instrument within two years, and said agent being requested to be diligent in the adjustment of said business.

In testimony whereof I have hereunto set my hand and affixed my seal on this the day and year above written.

[SEAL.] ANTOINE LAFONT.

Witnesses:

LEWIS A. LAFONT.

LOUIS P. FAY.

STATE OF MISSOURI,

County of New Madrid, ss:

Be it remembered that on this the first day of March, in the year of

our Lord one thousand eight hundred and forty-seven, before me, the undersigned, Alphonse De Laroderie, clerk of the circuit court of New Madrid County, Missouri, personally came and appeared Louis P. Fay, who is personally known to me to be the same person who subscribed his name and whose name is subscribed to the within instrument of writing, deed of conveyance, and power of attorney, as a subscribing witness thereto, who on his oath, duly administered by me, says, testifies, and proves that he is personally acquainted with Antoine Lafont; that he, Antonie Lafont, the person whose name is subscribed and who did subscribe his name to the within deed of conveyance and power of attorney as the principal and a party thereto, is the same person who executed it; that he did execute, and he heard him acknowledge it as a principal and a party thereto, and that he, the said Antonie Lafont, subscribed his name thereto as the principal and a party, and that he, Louis P. Fay, subscribed his name thereto as a witness thereof.

Sworn to and subscribed by—

LOUIS P. FAY.

To all of which I certify, on this the day and year above written, at my office in New Madrid, with my hand and the seal of said court.

[SEAL.] ALP. DE LARODERIE, *Clerk.*

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on this the fourth day of March, in the year of our Lord one thousand eight hundred and forty-seven, before me, Alphonse De Laroderie, the undersigned clerk of the circuit court of New Madrid County, Missouri, at my office in New Madrid, personally came Antoine Lafont, who is personally known to be the same person whose name is, and who subscribed his name to the within instrument of writing, power of attorney, and deed of conveyance, as the principal and as a party thereto, who, for the uses, purposes, and consideration therein contained, acknowledged the same to be his free act and deed. To all of which I certify, under my hand and the seal of said court, the day and year above written, at my office in New Madrid, Missouri.

[SEAL.] ALP. DE LARODERIE, *Clerk.*

I, Alphonse De Laroderie, clerk of the circuit court and ex-officio recorder of the county of New Madrid, in the State of Missouri, do hereby certify the foregoing to be duly recorded in book No. 17, pages 167 & 168, of New Madrid County records. Given under my hand at office in the town of New Madrid, this first day of March, A. D. 1847.

[.] ALP. DE LARODERIE, *Clerk.*

Filed and recorded June 18, 1847.

S. D. BARLOW, *Recorder.*

STATE OF MISSOURI,
County of St Louis:

I, the undersigned, recorder for said county, certify the foregoing to be a true and complete copy of an instrument of writing executed by Antoine Lafont to William W. Gitt, of the certificates and proof of acknowledgment of the recorder's certificate of New Madrid County, Missouri, and also of the date of filing and recording thereof, as fully as the same remains of record in my office in book I 4, page 334.

Witness my hand and official seal this the 31st day of May, A. D. 1870.

[SEAL.] JULIUS CONRAD, *Recorder.*

[5-ct. stamp, canceled.]

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court, and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in "record-book H," page 579, '80, '81, '82.

In testimony whereof I have hereunto set my hand and affixed my official seal, this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

(Indorsed:) Antoine Lafont to William W. Gitt. Book I 4, page 334 Copy, $1.75.

409 EXHIBIT H.

Rosalie Huston to A. L. Moreland.—Deed & power of atty.

Record-book M, county of Cape Girardeau, 1846.

Know all men by these presents that I, Rosalie Huston, of the parish of Concordia, and State of Louisiana, do, for and in consideration of five dollars to me in hand paid by Alexander L. Moreland, of Cape Girardeau County, Missouri, convey and quitclaim unto him, the said Alexr. L. Moreland, the one-half of all my right, title, and interest, in and unto the following land and real estate, lying and being in the State of Missouri, or the one-half of all the land that said agent may obtain, at his own risk, cost, and in every respect, expense, of any and each of the following described tracts, as well as the equal one-half of all lands to which I may in anywise be entitled, founded on any Spanish grant, French claim, New Madrid certificate of relocation, or in any other manner or in virtue of any other title, in any one of the States of Missouri, Arkansas, and Indiana, to any land and real estate, a part of which the following are descriptions: all the lands located in virtue of New Madrid certificates sixteen, seventeen, eighteen, nineteen, twenty-nine, thirty-one, thirty-two, fifty-one, eighty-two, ninety, one hundred and six, one hundred and twenty-one, one hundred and twenty six, one and ninety-five, one hundred and ninety-six, two hundred and eighteen, two hundred and nineteen. This last tract described is in township fifty-one north, and in range eighteen west; and also all the lands on certificates two hundred and twenty-three, in township fifty north, in range sixteen west, and the lands located in virtue of certificates two hundred and thirty-eight, and the lands located in virtue of certificates two hundred and eighty, two hundred and twenty-two, three hundred and thirty-three, three hundred and sixty-nine, and the land in township fifty-one north, in range seventeen west, founded on New Madrid certificate three hundred and sixty-three; and the land in township fifty-one north, in range seventeen west, founded on New Madrid certificate three hundred and seventy-six; and the lands on three hundred and seventy-seven, three hundred and ninety-three, and the land in township fifty-one north, in range twenty-six west, founded on New Madrid certificate four hundred and eighteen; and in this last township & range six hundred and forty acres founded on New Madrid certificate four hundred and four, and four hundred and eighty acres of land in section twenty-seven, in township fifty north, in range sixteen west; and all the lands in virtue

of certificates four hundred and six, four hundred and seven, four hundred and eight, four hundred and nine; the two last are in township forty-eight north, in range fifteen west; all one hundred and sixty acres of land in township thirty north, in range thirteen east, being New Madrid certificate four hundred and forty-four, and the land founded on New Madrid certificates four hundred and forty-two in township fifty-two north, in range seventeen west; and the land on certificate four hundred and thirty-three in township fifty-one north, in range thirty-two west; and the land on certificate four hundred twenty-eight in townships forty-four north, in range eleven west; and the land located on certificate four hundred and nineteen, and being survey two thousand eight hundred and seventy-three; and the lands located with or in virtue of New Madrid certificates four hundred and twenty-one, four hundred and twenty-two, and four hundred and twenty-three; and on New Madrid certificate four hundred and twenty-five, which said last tract of land is in township fifty-seven north, in range four west; and the land on certificates four hundred and ten, and four hundred and eleven, four hundred and twelve, four hundred and thirteen, four hundred and fourteen, four hundred and seventeen; and the last-mentioned tract being in Arkansas, as in township five north, and in range sixteen west, and being survey twenty-nine hundred and twenty-nine; and all the lands *an* or in New Madrid surveys twenty-seven hundred and eighty-six and in survey twenty-eight hundred and sixty-three, and in survey twenty-eight hundred and eleven, and in survey twenty-eight hundred and seventy-seven, and in surveys twenty-eight hundred and seventy-one, and twenty-eight hundred and seventy-four; and all of certificate four hundred and forty-three, as well as in all manner of lands, and my title and interest in and unto the same in Indiana, Arkansas, and Missouri; to have and to him, the said Alexr. L. Moreland, an equal one-half of the same shall and hereby does belong in virtue of the aforesaid consideration.

Now know all men by these presents that I, Rosalie Huston, late Rosalie Gobeau, do nominate and appoint Alexr. L. Moreland of the county of Cape Girardeau, my true and lawful agent and attorney-in-fact to demand, quitclaim, and convey or compromise for the sale of any or all of the aforesaid lands, or, if requisite, to sue for and recover the same though at the entire risk as to the expense of the said afore-named agent, and authorizing and empowering my said agent to receive and receipt for his own proportion of the sale of saids, and pay to me at my residence *in my afore-named residence* in Louisiana the other one-half. Or should actual possession of any one, all or a part of the lands be obtained by my said agent for his and my use, the part to which I am entitled of the proceeds of rents or profits, shall be paid to me in the *a* like manner, and at the same place, hereby covenanting to and with the said agent and grantee, Alexander L. Moreland, that I will not revoke the agency with which I have invested him, within two years, if ever.

In testimony whereof I have hereunto set my hand and seal on this the ninth day of February, in the year of our Lord one thousand eight hundred and forty-seven. I also authorize my said agent to demand and obtain all papers having relation to any of the claims of land above refer'ed to.

ROSALIE HUSTON. [SEAL.]

Witnesses:
WILLIAM W. GITT.
W. C. HOLTREE.
LOUIS P. FAY.

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on this, the nineteenth day of February, in the year of our Lord one thousand eight hundred and forty-seven, before me, Richard Barkly, clerk of the county court of New Madrid county, Missouri, came Louis P. Fay, who is personally known to me to be the same person whose name is subscribed to the above instrument of writing, as a subscribing witness thereto, who, on his oath, duly administered, says he is personally acquainted with Rosalie Hutson; that the person whose name is subscribed to the writing as a party thereto is the person who executed it; that she did execute, and he he'rd her acknowledge it, and subscribed her name as a party thereto; and he subscribed his name thereto as a witness thereof. To all of which I certify under my hand & the seal of said court.

[L. S.] RICHD. BARKLY, *Clerk.*

Received for record & recorded March 10th, 1847.

ROBT. BROWN,
Clerk & Ex-officio Recorder.

410 STATE OF MISSOURI,
County of Cape Girardeau, ss:

I, Nathan C. Harrison, clerk of the circuit court, and ex-officio recorder within and for the county aforesaid, hereby certify that the above and foregoing is a full, true, and perfect copy of the deed and power of attorney from Rosalie Huston to Alexander L. Moreland, as fully as the same appears of record in my office, in book M, pages 27, 28, & 29.

Witness my signature and official seal affixed hereto, at my office, in Jackson, Mo., this 9th day of June, A. D. 1870.

[SEAL.] NATHAN C. HARRISON,
Clerk and Recorder Ex-officio.

Certificate of record.

STATE OF ARKANSAS,
County of Hot Springs, ss:

I, A. H. Bassett, clerk of the county court, and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book H, page 584, '5, '6, & '7.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

EXHIBIT I.—*Stephen Michel, alias Etienne Michel, to A. L. Moreland and William M. Gitt.—Power atty.*

Record-book M, county of Cape Girardeau, 1846.

This instrument of writing and power of attorney, entered into on this the twenty-sixth day of February, in the year of our Lord one thousand eight hundred and forty-seven, at Obion County and State of Tennessee, witnesseth that Stephen Michel, alias Etienne Michel, of Obion County, Tennessee, does now hereby nominate, appoint, and confirm Alexander L. Moreland and William M. Gitt, or either of them, to be my true and

lawful agent and attorney in fact, for me and in my name to demand and obtain, or compromise for, or grant, sell, and quitclaim all the following real estate, and all my right and title thereto and therein, or at the option of both or either of my said agents to sell and convey, in my name and for me, any one or all of the following-described lands, to wit: The following lands in Missouri: Three tracts in township forty-five north, and in range seven east, founded on New Madrid certificates seventeen, nineteen, ninety-four, one hundred and three, and one hundred and sixty-one. The following tracts, containing six hundred and forty acres each, in township forty-eight north, and in range sixteen west, to wit: All the lands located by virtue of New Madrid certificates numbers four hundred and forty-three and three hundred and ninety-three, containing more or less than six hundred and forty acres each. The following lands in township fifty-one north, in range seventeen west: One containing one hundred and sixty acres, founded on New Madrid certificate number three hundred and seventy-six; one other tract, containing three hundred and forty acres and twenty-seven hundredths, founded on New Madrid certificate number three hundred and sixty-three; and in the last-named township and range two hundred and four acres and sixteen*th* hundredths, founded on New Madrid certificate three hundred and thirty-one; and all the lands located with or by New Madrid certificates seventeen, eighteen, nineteen, twenty, one hundred and ninety-five, one hundred and ninety-six, four hundred and three, four hundred and four, four hundred and five, four hundred and six, four hundred and seven, four hundred and eight, in township forty-eight north, in range fifteen west, as containing six hundred and forty acres; and all the lands located with certificates numbers four hundred and nine, four hundred and ten, four hundred and eleven, four hundred and twelve, four hundred and thirteen, and four hundred and nineteen, which last is in township forty-eight north, and in ranges fourteen and fifteen west; and all and singular my right and title to all lands in the States of Missouri, Arkansas, and Indiana, the same agency extends, *and authority*, to my said agents or agent. One tract, of which a description of is remembered in Arkansas, in township five north, in range sixteen west, containing six hundred and forty acres, founded on New Madrid certificate four hundred and seventeen.

I, the undersigned, bind myself not to revoke this power of attorney within three years, and to release and discharge my agent from the one-half of all moneys collected on sales of lands, he to pay to me, at my residence, the other one-half; he or they shall also be entitled to the one-half of all the lands for his or their trouble or expense.

Witness my hand and seal.

STEPHEN MITCHELL. [SEAL.]

Witnesses:
P. V. MARR.
JOSEPH B. COFIELD.

STATE OF MISSOURI,
County of New Madrid, ss:

Be it remembered that on the first day of March, in the year of our Lord one thousand eight hundred and forty-seven, before me, the undersigned, Alphonse Delaroderie, clerk of the circuit court in and for New Madrid County, Missouri, personally came and appeared at my office, in New Madrid, Joseph B. Cofield, who is personally known to me to be the same person whose name is subscribed to the within instrument of writing and power of attorney as a subscribing witness thereto, who, on

his oath, duly administered by me, says and proves that he is personally acquainted with Stephen Michel, the person whose name is subscribed to the within instrument of writing and a power of attorney as the principal and as a party thereto, is the person who executed it, and he he'rd him acknowledge it, for the uses, purposes, and considerations therein contained; that he, Stephen Michel, is the same person who executed and acknowledged it as the principal and as a party thereto, and that he, said witness, subscribed his name thereto as a witness thereof, and that Stephen Michel subscribed his name thereto a' party and the principal.

JOSEPH B. COFIELD.

Sworn to and subscribed by Joseph B. Cofield; to all of which I certify, under my hand and the seal of said court, the day and year above written, being also my official seal, at my office, in New Madrid, Missouri.

[L. S.] ALPR. DELARODERIE, *Clerk.*

411 Received for record & recorded March 10th, 1847.

ROBERT BROWN,
Clerk & Ex-officio Recorder.

STATE OF MISSOURI,
County of Cape Girardeau, ss:

I, Nathan C. Harrison, clerk of the circuit court, and ex-officio recorder within and for the county aforesaid, hereby certify the above and foregoing to be a full, true, and perfect copy of the instrument of writing and power of attorney executed by Stephen Michel, alias Etienne Michel, to A. L. Moreland and Wm. M. Gitt, as fully as the same appears of record in my office, in book M, pages Nos. 26 & 27.

Witness my signature and official seal, affixed hereto at office, in Jackson, Missouri, this 8th day of June, A. D. 1870.

[SEAL.] NATHAN C. HARRISON,
Clerk and Recorder Ex-officio.

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court, and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office at o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book H, page' 282, '3, & '4.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27 day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

EXHIBIT K.

Deed of Alex. L. Moreland to Wm. W. Gitt.

Record-book P of deeds, Cape Girardeau County, Missouri.

Know all men by these presents that I, Alexander L. Moreland, of Cape Girardeau County, Missouri, do, for and in consideration of seven

hundred and sixty-four dollars, to me in hand paid by William W. Gitt, of Cape Girardeau, Missouri, sell, release, quitclaim, and convey unto the said William W. Gitt, his heirs and assigns, the following lands in Missouri, to wit, six hundred and forty acres in Cooper County, Missouri, located on New Madrid location-certificate numbered four hundred and eighty-three, (483,) and survey twenty-eight hundred and five; one tract in Howard County, Missouri, containing three hundred and forty acres and twenty-seven hundredths *acres*, located in virtue of New Madrid certificate number five hundred and two, and survey two thousand nine hundred and thirteen; and one other tract of land in Layfayette County, Missouri, containing one hundred seventy and fourteen hundredths acres, located in virtue of New Madrid location-certificate fifty-one; and one tract in Lafayette County, Missouri, located in virtue of certificate number *number* four hundred and four; one other tract in said county located in virtue of New Madrid location-certificate number four hundred and eighteen, and all the lands founded upon location-certificates number three hundred and twenty-five; and for a part of the same consideration I convey, sell, and quitclaim unto said William W. Gitt, his heirs and assigns, all other lands in Missouri, (except the following described tract of land, viz, New Madrid certificate number four hundred and forty-four, (444,) and survey number twenty-nine hundred and nineteen, in the name of Tousaint Godair,) and all lands in Arkansas and Illinois to which I have any right in law or equity. In testimony whereof I have hereunto set my hand and seal, at Jackson, Missouri, this twentieth day of June, one thousand eight hundred and forty-nine.

ALEXANDER L. MORELAND. [SEAL.]

In presence of—
I. W. LIMBAUGH,
and S. ALBERT.

STATE OF MISSOURI,
County of Cape Girardeau, ss:

Be it remembered that on this twenty-first day of June, A. D. eighteen hundred and forty-nine, before me, the undersigned, clerk of the county court of Cape Girardeau County, Missouri, personally came and appeared Alexander L. Moreland, who is personally known to me to be the same person whose name is subscribed, and who subscribed his name to the within deed as a party, and the grantor thereto, and who, for the uses and purposes and considerations therein contained, acknowledged the same to be his act and deed. To all of which I certify under my hand, and under the seal of said court, the day and year above written, at my office in Jackson County and State aforesaid.

[L. S.] CALEB P. FULENWIDER, *Clerk*,
By his deputy, O. E. SNIDER.

STATE OF MISSOURI,
County of Howard, sct:

I, Andrew Cooper, clerk of the circuit court and ex-officio recorder for Howard County, do certify that the within and foregoing deed was filed for record on the 18th day of October, A. D. 1851, and is duly recorded in deed-book marked "No. 1, pages 341, 342."

Given under my hand and the seal of said court, at office, on the day and year aforesaid.

[L. S.] ANDREW COOPER,
Recorder for Howard County.

Received for record and recorded May 26th, 1852.

HY. SANFORD, *Clerk.*

STATE OF MISSOURI,
County of Cape Girardeau, ss:

I, Nathan C. Harrison, clerk of the circuit court and ex-officio recorder in and for the county aforesaid, hereby certify the above and foregoing is a full, true, and complete copy of a deed of quitclaim from Alexander L. Moreland to William W. Gitt, as fully as the same appears of record in my office, in book P of deeds, pages No. 481 & 482.

Witness my signature and official seal affixed hereto, at my office in Jackson, Mo., this 9th day of June, 1870.

[SEAL.] NATHAN C. HARRISON, *Clerk.*

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the circuit court and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and fore-
412 going instrument of writing was filed for record in my office at o'clock, minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book H, page' 587, '88, & '89.

In testimony whereof I have hereunto set my hand and affixed my official seal, this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

EXHIBIT L.—*Quitclaim.*—*William W. Gitt to George Mackay.*

[Stamp, $10.]

This indenture, made the first day of May, in the year one thousand eight hundred and seventy, between William W. Gitt, of the city, county, and State of New York, of the first part, and George Mackay, of the same place, of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of ten thousand dollars, lawful money of the United States of America, to him in hand paid by the said party of the second part, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath remised, released, and quitclaimed, and by these presents doth remise, release, and quitclaim, unto the said party of the second part, and to his heirs and assigns forever, all that undivided one-half interest, however derived, of New Madrid claim four hundred and sixty-seven, (467,) survey number two thousand and nine hundred and three, (2903,) confirmation ten hundred and seventy-six, being one hundred and sixty acres, to Francis Langlois, located upon the Hot Springs of Arkansas, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof. And, also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part of, in, or to the above-described premises, and every part and parcel thereof, with the appurtenances; to have, to hold, all and singular the above-mentioned and described premises and every part and parcel thereof, with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

In witness whereof the said party of the first part hath hereunto set his hand and seal the day and year first above written.

WILLIAM W. GITT. [SEAL.]

Sealed and delivered in presence of—
WILLIAM C. LUSK.
CHARLES NETTLETON.

STATE OF NEW YORK,
City and County of New York, ss:

Be it remembered that on this 18th day of May, A. D. 1870, before me, Charles Nettleton, a commissioner of the State of Arkansas in for the State of New York, duly commissioned and sworn, and dwelling in said city of New York, personally appeared William W. Gitt grantor in and to the within deed of conveyance, to me personally well known to be such, who stated and acknowledged that he voluntarily executed and delivered the within deed for the consideration and purposes therein mentioned and set forth: and I do hereby so certify.

In witness whereof I have hereunto set my hand and affixed my official seal.

[SEAL.] CHARLES NETTLETON,
Commissioner for Arkansas in New York.

STATE OF ARKANSAS,
County of Hot Springs, ss:

I certify that the foregoing is a true copy of the original, received for record June 28th, 1870, and recorded in book H, page 590.

In testimony whereof I hereto sign my name and affix my official seal, at office, at Rockport, June 28th, 1870.

[SEAL.] A. H. BASSETT,
Clerk & Ex-officio Recorder.

EXHIBIT M.—*Certificate and application for survey.*

ST. LOUIS, *August 4th*, 1818.

F'ois Langlois, sen., (comm. cert. No. 1076.) Clmt. 200 arp's; Bayou St. John, D. N. M.

Geo. Tennille, duly sworn, says that this tract was and remains materially injured by earthquakes.

OFFICE OF U. ST. RECORDER OF LAND-TITLES,
St. Louis, 2d June, 1870.

This is to certify that the foregoing is correctly copied from page 75 of a book known as Recorder Frederick Bates' minutes as to lands in New Madrid damaged by earthquakes, which book is on file in this office.

ALBERT SIGEL,
U. St. Recorder of Land-Titles for the State of Missouri.

[5-cent stamp, cancelled.]

No. survey, No. 467. Francis Langlois. 200 arpens.

Location made in the Territory, now State, of Arkansas. Papers sent to the surveyor-general of that State, at Little Rock.

Gen'l WILLIAM RECTOR,
Surveyor, etc., of the Public Lands for the State of Illinois and Territory of Missouri:

The undersigned applies for entry or location of two hundred arpens

of land to satisfy a certificate issued by Frederick Bates, esqr., recorder of land-titles for the Territory of Missouri, to Francis Langlois, or legal representatives, dated 26th November, 1818, and numbered four hundred and sixty-seven, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, and to include the Hot Springs, so called, upon the waters of Ou'chita River, south of the River Arkansas, the said springs to be as near the centre of the square as circumstances will admit.

An order of survey is solicited and directions agreeable to this notice. The springs so to be included are those generally known as the largest and most resorted to upon that river.

ST. LOUIS, 27*th Feb'y*, 1819.

S. HAMMOND.
ELIAS RECTOR.

413 (In pencil on margin:) The relinquishment for this certificate was made by executor of Michel, Aug't 5th, 1818. Date of cert., Augt'.

(NOTE.—The court excludes this pencil-memorandum as not a part of the record.

Test: JOHN RANDOLPH,
Asst. Clk. Court of Claims.)

OFFICE OF U. ST. RECORDER OF LAND-TITLES,
St. Louis, 2*d June*, 1870.

This is to certify that the foregoing is correctly copied from page 503 of record-book of New Madrid certificates and locations, which record-book is on file in this office.

ALBERT SIGEL,
U. St. Recorder of Land-Titles for the State of Missouri.

[5-ct. stamp, canceled.]

Certificate of record.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Bassett, clerk of the county court, and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office, at o'clock minutes m., on the 25th day of June, A. D. 1870, and the same is now duly recorded in record-book H, page' 263 & 264.

In testimony whereof I have hereunto set my hand and affixed my official seal this 27th day of June, A. D. 1870.

[SEAL.] A. H. BASSETT, *Clerk.*

(Indorsed:) Francis Langlois, sen. 200 arpens, Bayou St. John, N. Madrid. Proof before Recorder Bates. Location in Arkansas, Hot Springs, Hot Spring County, Ark. Filed for record June 25, 1870. A. H. Bassett, clk. & ex-officio recorder. H. 563, 564. Fee, $2.00.

Proceedings of commissioners.

THURSDAY, *January* 17*th*, 1811.

Board met. Present, John B. C. Lucas, Clement B. Penrose, Frederick Bates, commissioners.

Francis Langlois, senior, claiming 200 arpens of land situate as aforesaid, (on Bayou St. John, district of New Madrid,) produces to the board a petition for a concession and recommendation from Henry Peyroux, commandant, dated 24th September, 1800.

The following testimony in the foregoing claim, taken, as aforesaid, at New Madrid, June 19th, 1808:

Peter Dumay, duly sworn, says that premises were improved in 1802, a house built, 4 acres cleared and inhabited, and cultivated constantly to the present time; 12 acres now in cultivation; a single man above the age of 21 in 1803.

The board grant to Francis Langlois, senior, two hundred arpens of land, and order that the same be surveyed as nearly in a square as may be, and so as to include his improvements.

THURSDAY, *June 20th*, 1811.

Board met. Present, Clement B. Penrose and Frederick Bates, commissioners.

Cr. 1076. Francis Langlois, senior; book 5, page 88; survey at expense of claimant.

414 OFFICE OF U. ST. RECORDER OF LAND-TITLES,
St. Louis, 2d June, 1870.

This is to certify that the foregoing is correctly copied from pages 88, 89, and 191 of book No. 5, containing the minutes of the old board of commissioners acting under the provisions of the 2d section of an act of Congress passed the 2d March, 1805, which book No. 5 is on file in this office.

ALBERT SIGEL,
U. St. Recorder of Land-Titles for the State of Missouri.

[5-ct. stamp, canceled.]

LOUISIANA:

Commissioners' certificate No. 1076, *June 20th*, 1811.

We, the undersigned commissioners for ascertaining and adjusting the titles and claims to land in the Territory of Louisiana, have decided that Francis Langlois, senior, original claimant, is entitled to a patent under the provisions of the 2nd section of the act of the Congress of the United States entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the district of Louisiana," passed the second day of March, one thousand eight hundred and five, for two hundred arpens of land situate in the district of New Madrid, Bayou St. John, and order that the same be surveyed as nearly in a square as may be and so as to include his improvements.

By virtue of a permission from the proper Spanish officer, and also of actual inhabitation and cultivation prior to and on the twentieth day of December, one thousand eight hundred and three.

(Signed) JOHN B. C. LUCAS.
CLEMENT B. PENROSE.
F. BATES.

OFFICE OF U. ST. RECORDER OF LAND-TITLES,
St. Louis, 2d June, 1870.

This is to certify that the above commissioners' certificate No. 1076,

for Francis Langlois, senior, is correctly copied from the original certificate on file in this office.

ALBERT SIGEL,
U. St. Recorder of Land-Titles for the State of Missouri.

[5-ct. stamp, canceled.]

(Indorsed:) 2. N. 1, 2, 3. Francis Langlois, senior. 200 arpens. Bayou St. John, N. Madrid. Concession and proof before old board of commissioners. Commiss. crt. No. 1076. Fee, $3.50. 6244. McKay and Gitt vs. The United States. Filed Oct. 6, 1874. J. R.

Mr. Casey cites executive document No. 70, 1st session, Senate, 31st Congress, 1850, as follows:,

415 No. 1.

ST. LOUIS, *June* 22, 1838.

DEAR SIR: The enclosed documents are those necessary for the issuing of patents to the legal representatives of the original claimants. There seem to be some omissions by the surveyor-general, to wit, the number of survey and the township and range of the Langlois tract; this claim being located previous to the making of the public surveys, may render it unnecessary to state the numbers, as they will be shown by reference to the plat of the township on which such location appears, as per reference to township 2 south, range 19 west of the fifth principal meridian. The numbers of each, as you will discover, have been procured from the surveyor-general's office in this place, the locations being made previous to the creation of the Little Rock office. You will please enclose the patents to my address, and oblige

Yours, respectfully,

416 HENRY M. RECTOR,
Little Rock, Arkansas.

To COMMISSIONER OF THE GENERAL LAND-OFFICE,
Washington City, D. C.

No. 2.

No. 435.] OFFICE OF THE RECORDER OF LAND-TITLES,
St. Louis, Missouri, June 16, 1838.

I certify that, in pursuance of the act of Congress passed the 17th day of February, 1815, a location-certificate, number 467, issued from this office in favor of Francis Langlois, or his legal representatives, for two hundred arpens of land; that a location has been made, as appears by the plat of survey herewith, and that the said Francis Lang-
417 lois, or his legal representatives, is entitled to a patent for the said tract, containing, according to said location, one hundred and seventy acres and fifteen hundredths of an acre, situated in the State of Arkansas, the township and range not mentioned, survey number 2903.

F. R. CONWAY,
U. S. Recorder of Land-Titles in the State of Missouri.

To COMMISSIONER OF THE GENERAL LAND-OFFICE,
City of Washington.

No. 3.

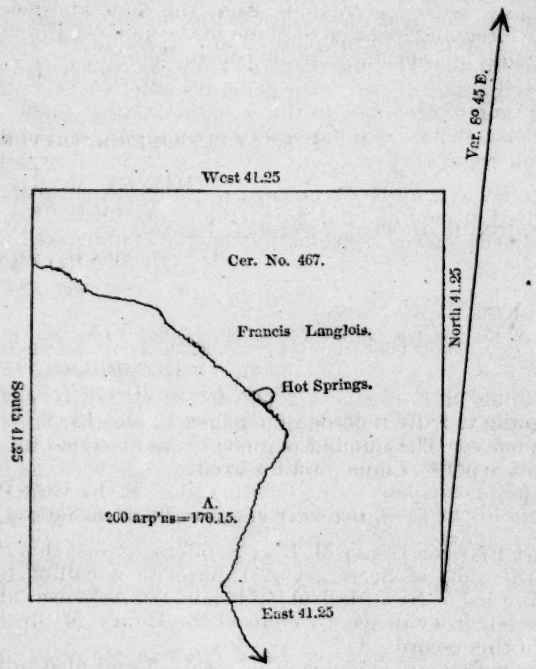
General WILLIAM RECTOR,
Surveyor, etc., of the Public Lands for State of Illinois and Territory of Missouri.

418 The undersigned applies for the entry or donation of two hundred arpens of land, to satisfy a certificate issued by Frederick Bates, esq., recorder of land-titles for the Territory of Missouri, to Francis Langlois, or his legal representatives, dated 26th November, 1818, and numbered 467, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, and to include the hot springs (so called) upon the waters of the Ouachita River, south of the river Arkansas; the said springs to be as near the centre of the square as circumstances will admit. An order of survey is solicited, and directions agreeably to this notice. The springs so to be included are those generally known as the largest and most resorted to upon that river.

S. HAMMOND.
ELIAS RECTOR.

ST. LOUIS, *27th January*, 1819.

419



Certificate No. 467—(*Var.* 8° 45′ *east*)—*Survey No.* 2903.

Surveyed for Francis Langlois, or his legal representatives, who

claims location by virtue of certificate No. 467, issued by Frederick Bates, recorder of land-titles, on the 26th November, 1818, two hundred arpens, equal to one hundred and seventy and fifteen-hundredths acres of land, beginning at the main hot spring of Arkansas; thence S. 45° E. on an unmarked line, 29.17 chains, where set a post, the south-
420 east corner of said survey, from which a pine 24 inches diameter bears N. 7° E. 40 links, and a pine 16 inches diameter bears N. 67° W. 53 links, each marked P. S. and B. T.; thence north, (with the line of the survey,) at 204 links a white oak 13 inches diameter; at 41.25 chains set a post, the northeast corner of said survey, from which a pine 16 inches diameter bears N. 45° E. 15 links, and a black oak eight inches diameter bears S. 68° W. 15 links, each marked P. S. and B. T.; thence west, at 355 links a white oak 24 inches diameter; at 41.25 chains set a post, the northwest corner of said survey, from which a white oak 16 inches diameter bears N. 10° E. 48 links, and a white oak 18 inches diameter bears S. 58° E. 56 links, each marked P. S. and B. T.; thence south, at 60 links a white oak, at 12.10 chains Hot Spring Creek bears east; at 41.25 chains set a post, the southwest corner of said survey, from which a black oak six inches diameter bears N. 48° E. 21
421 links, and a black oak 10 inches diameter bears N. 28° W. 50 links; thence east, at 563 links a black oak 12 inches diameter, at 18.87 chains Hot Spring Creek bears south; at 41.25 chains the southeast corner of said survey.

In conformity with instructions from the surveyor-general, I have surveyed the foregoing location of claim in the name of Francis Langlois, so that the main hot spring is in the centre thereof.

JOHN C. HALE, *D. S.*

FEBRUARY 28, 1838.

SURVEYOR'S OFFICE, LITTLE ROCK,
April 23, 1838.

The foregoing writing is a true copy of the location, plat, and survey of two hundred arpens of land, by virtue of certificate No. 467, on file in this office; the survey of which has been examined and approved.

EDWARD CROSS,
Surveyor Public Lands.

To FREDERICK R. CONWAY,
U. S. Recorder of Land Titles, St. Louis, Missouri.

422 RECORDER'S OFFICE,
St. Louis, Missouri, June 16, 1838.

The foregoing is truly recorded on pages 42 and 43 of book G of records in this office. The number of survey was obtained by me from the surveyor's office at St. Louis, and inserted.

F. R. CONWAY,
U. S. Recorder of Land Titles in State of Missouri.

Mr. Albert Pike for Henry M. Rector, offers against this claimant Exhibit F, in the reply of Secretary of Interior to a call of the Court of Claims giving list of New Madrid land claims in Arkansas and Missouri, as already cited in evidence by counsel for Henry M. Rector on page 347 of this record.

423 The following evidence was received and filed in the Court of Claims of the United States, and was, upon the trial of these consolidated causes, read by Mr. H. H. Blackburn, of counsel in behalf of the claim of John H. Russell, (from page 423 to page 431 of this record.)

Quitclaim deed.—Henry M. Rector to John H. Russell.

Know all men by these presents that, for and in consideration of the sum of ten thousand dollars, ($10,000.00,) to me in hand paid, the receipt whereof is hereby fully acknowledged, I have bargained and sold and quitted claim, and do hereby quitclaim, unto John H. Russell, all my right, interest, and title, of whatever character and description, in and to two hundred arpens of land, equal to one hundred and seventy and fifteen hundredths acres of land, situated and lying in the county of Hot Spring, in the State of Arkansas, surveyed for Francis Langlois, as per certificate numbered 467, and survey 2903; said certificate numbered 467, issued by Frederick Bates, recorder of land-titles, on the 26th November, 1818, and known as the New Madrid location, covering the hot springs: To have and to hold the same to the said John H. Russell, his heirs and assigns; but I do not warrant the title to said land, but only give this as a quitclaim deed.

Witness my hand and seal this 5th day of March, A. D. 1867.

HENRY M. RECTOR. [SEAL.]

[$10 revenue stamp.]

In presence of—
E. RECTOR.
THOS. H. WALKER.

STATE OF ARKANSAS,
County of Pulaski:

Be it remembered that, on this 5th day of March, personally came and appeared before me, clerk of the circuit court in and for said county and State, the above-named Henry M. Rector, and acknowledged that he had signed and sealed the foregoing deed for the uses and purposes and consideration therein named, and desired me to so certify this the date above written. In testimony whereof I hereunto set my hand as such clerk, and affix the seal of my office, in the county and State aforesaid, on the day and year last aforesaid.

[L. S.] THOS. H. WALKER, *Clerk.*

Filed for record March 7th, 1867, and duly recorded above the same day.

HUGH McCALUM,
Clerk & ex-officio Recorder.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Barrett, county clerk and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and foregoing is a true and correct copy of the record of said court as therein set forth, and the same as appears of record on page 468 of record-book G, of deeds. I further certify that I am the keeper of the records of said county & State.

In testimony whereof I have hereto set my hand and affixed my official seal, on this 20th day of March, 1873.

[SEAL.] A. H. BARRETT, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, James E. Prichard, county and probate judge within and for the

county of Hot Spring and State of Arkansas, do hereby certify that the foregoing attestation of the record is in due form and by the custodian thereof.

Witness my hand and seal of said court this 20th day of March, A. D. 1873.

[SEAL.] J. E. PRICHARD,
County Judge.

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, A. H. Barrett, county clerk and ex-officio clerk of the circuit court for said county and State of Arkansas, do hereby certify that James E. Prichard, whose name appears signed to the foregoing certificate, is and was at the date thereof county judge within and for the county of Hot Spring and State of Arkansas, duly commissioned and qualified as such.

In testimony whereof I hereunto set my hand as clerk and affix the seal of said court in said county this 20th day of March, A. D. 1873.

[SEAL.] A. H. BARRETT, *Clerk.*

424 *The deposition of Stephen R. Harrington, for claimant, taken at Little Rock, Ark., on the 9th day of February, A. D. 1874.*

First general interrogatory by the commissioner. Please state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Stephen R. Harrington. I am a lawyer; thirty-four years old; reside in Little Rock, Ark. I have no interest, direct or indirect, in the claim in question, and am not related to the claimant in any way whatever.

Being interrogated by John H. Russell, the claimant, the witness says:

Interrogatory. Do you know the law firm of Sanborn & King, Washington, D. C.?

(Objected to by Henry M. Rector, one of the claimants, as leading and irrelevant.)

Answer. I do.

Interrogatory. How long have you known them?

(Question objected to by Henry M. Rector, for the same reasons as above.)

Answer. About six years, I think.

Interrogatory. Do you know whether or not they are of counsel for Henry M. Rector, to secure a title to the Hot Springs reservation in this State?

(Question objected to by Henry M. Rector as irrelevant, immaterial, and leading.)

Answer. I believe their names appear of record in the claim of Mr. Rector to a portion of the Hot Springs reservation. Mr. Sanborn has informed me that he was employed to secure that claim.

(Answer objected to by Henry M. Rector as being irresponsive to the interrogatory and immaterial.)

Interrogatory. Did you ever have an interview with Sanborn, as such counsel, relating to said claim? If so, state it.

(Question objected to by Henry M. Rector as leading and irrelevant and immaterial.)

Answer. In the summer of 1870 Mr. Sanborn was here in Little Rock, and sent for me to meet with him and William J. Patton, at Mr. Patton's office. I did so. It was at this time that Mr. Sanborn informed me that he was engaged in trying to secure a title for Mr. Rector to his Hot Springs claim. He said that he and Mr. Patton had been to see Mr. Rector, at Hot Springs, to get him to enter into a contract with them relative to the same. I think he said they could get no contract from Mr. Rector, but that Mr. Rector was willing to abide by a contract he had entered into with Mr. Russell, provided Mr. Russell would employ General Pike, at Washington, D. C. Mr. Russell was to pay General Pike a certain fee down, and a certain larger fee when the case should be disposed of. Sanborn and Patton both seemed anxious that Mr. Russell should co-operate with them. Mr. Patton claimed to have some interest in securing the title to Mr. Rector in the Hot Springs. They desired me to telegraph to Mr. Russell, advising him to co-operate with them on such terms as they stated. Mr. Patton and Mr. Sanborn each wrote several dispatches, trying to get the facts in a condensed form to send by telegraph. I took one, that had been prepared by Mr. Sanborn, down to the telegraph office and copied it on one of the office blanks, to be transmitted to Mr. Russell, at Washington, D. C.

(Answer objected to by Henry M. Rector, because it is not responsive to the interrogatory; second, because it is hearsay and secondary evidence, and immaterial to the issue.)

Cross-examination by Henry M. Rector, one of the claimants:

Cross-interrogatory. State, if you recollect, what time in 1870 you had this conversation with Mr. Sanborn.

Answer. In the month of August.

Cross-interrogatory. You state that Sanborn & King are my attorneys in the prosecution of my claim to the hot springs. State in what court.

Answer. I think their names appear in the Court of Claims in the records of the case, in which Mr. Rector appears as claimant for a portion of the Hot Springs reservation.

Cross-interrogatory. State whether or not these gentlemen, Messrs. Sanborn & King, were my attorneys in the Court of Claims in the month of August, 1870, when you had this conversation with Mr. Sanborn in connection with this claim.

Answer. I cannot say.

Cross-interrogatory. You have stated that Sanborn & King were my attorneys in the Court of Claims for the prosecution of the Hot Springs case. Will you please state at what time they became my attorneys in that court, and how you learned that fact?

Answer. I have stated that I believed their names appeared of record as counsel in such case. I do not know when they became claimant's (Rector) attorneys. I have at different times seen records appertaining to Mr. Rector's claim wherein I think I have seen the name of Sanborn & King as attorneys for Mr. Rector.

Cross-interrogatory. Please state when it was you saw those records. What character of records were they? What induced you, from the examination of those records, to believe that Sanborn & King were my attorneys in the Court of Claims in that case?

Answer. At different times during the last year I saw the records. I saw the petitions and portions of the testimony in Mr. Rector's and

other claims. I think I have seen their names in the records as Mr. Rector's attorneys.

Cross-interrogatory. Do you mean to say that you have examined the records of the Court of Claims in Washington, D. C., in reference to Rector's claim to the hot springs? If so, state when you examined them.

Answer. I do not.

Cross-interrogatory. My understanding from your answer to that interrogatory is that you have never examined the records of this case in Washington, D. C. If so, answer yea or nay.

Answer. I have never examined such records.

Cross-interrogatory. When you state that Sanborn & King, in Washington, D. C., are now or have been my attorneys in the Court of Claims for the prosecution of my claim to the hot springs, how do you derive that knowledge, from the inspection of the records or from hearsay?

Answer. I have stated that I believed their names appeared of record as the attorneys of Mr. Rector in the Court of Claims in his suit for the hot springs.

Cross-interrogatory. Upon what do you found that belief; from
425 the examination of the records in Washington, D. C., or from the information of other parties?

Answer. From neither; from having seen the petition and amended petition or printed copies thereof, and other papers and records of the claimant in this case.

Cross-interrogatory. Did you or did you not see any records or petitions, or other court writings, or other papers of date as early as August, 1870, in which those gentlemen, Messrs. Sanborn & King, appeared or were authorized to appear as my attorneys?

Answer. I do not think I ever did.

Cross-interrogatory. State, if you know, when the petition of the claimant, Rector, was filed in the Court of Claims in Washington, D. C., preferring titles to the hot springs property.

Answer. I cannot answer positively without referring to papers now in my possession.

Cross-interrogatory. State whether or not these petitions and papers and records in the Court of Claims which you say you have seen, showing that Sanborn & King in Washington, D. C., were my attorneys, were dated as early as August, 1870, when you had these interviews with General Sanborn and Mr. William J. Patton.

Answer. My impression was that they were not, but they may have been. I will not be positive as to dates, nor even that the names are there without an examination of the papers.

S. R. HARRINGTON.

Subscribed and sworn to before me this 9th day of February, A. D. 1874.

RALPH L. GOODRICH,
United States Commissioner.

The deposition of Joseph F. Mollère, a witness on the part of the claimant, in the above-entitled cause, taken at Washington, D. C., on the 29th day of September, 1874.

First general interrogatory by the commissioner. Please state your name, age, residence during the past year, your occupation; and whether you have any interest, direct or indirect, in the claim which is the sub-

ject of inquiry in this suit; and whether, and in what degree, you are related to the claimant.

Answer. My name is Joseph F. Mollère. My age is fifty-two years. I have been a contractor under the board of public works. At present I am doing nothing. My residence the past year has been Washington, D. C. I have no interest, direct or indirect, in the claim which is the subject of inquiry in this suit, and am in no degree related to the claimant.

In response to interrogatories by counsel for claimant, Charles E. Hovey, esq., the witness says:

Question. Are you acquainted with Mr. Russell or Mr. Rector, either or both of them?

Answer. I have known Mr. Russell since, probably, 1862 or 1863. As far as Mr. Rector is concerned, I met him in company with Mr. Russell some time in the winter of 1867 or 1868. I think it was just prior to the recess of Congress in 1867.

Question. Please state what occurred at that meeting.

Answer. I went to the hotel to see Mr. Russell. I saw him going in there, and I wanted to see him on some business; and he invited me into the sitting-room that is right back of the office of Bunker's Hotel, as it was called then, and now known as the St. James Hotel of this city. He asked me to be seated, and said he would be at leisure presently.

Question. Mr. Russell asked you to be seated?

Answer. Yes, sir; and I remember now, since I have heard Mr. Spicer's evidence, of Mr. Russell's introducing Mr. Spicer to Mr. Rector. That is the way I came to know it was Mr. Rector.

Question. Were you introduced yourself?

Answer. No; I was not introduced. I sat off on one side, and Mr. Russell introduced Mr. Spicer to Mr. Rector. That is where I came to know him—to know that it was Mr. Rector.

Question. Did you overhear the conversation that took place?

Answer. I heard the conversation concerning the contract about the hot springs in Arkansas.

Question. What was said?

Answer. Well, Mr. Rector was very impressive on Mr. Russell to tell him to go on, even if the contract had expired; that he could go on and keep prosecuting the claim and get it through, even if it took twenty years, and that he would stand good by it—by the contract.

Question. What contract did he refer to?

Answer. From what I understood, it was a contract about the hot springs in Arkansas; a contract, it would seem, that had expired.

Question. A contract between whom?

Answer. Between Mr. Russell and Mr. Rector. Mr. Rector stated that he could not himself prosecute it; that he could not give it influence, for the very reason that about that time he was known to be a very prominent rebel, and would have no influence, and he relied entirely upon Mr. Russell in getting it through, and he didn't care how long, or what length of time it took to get it through.

Question. How came you to remember this conversation?

Answer. After the conversation transpired I went out with Mr. Russell, and I asked him who this man Rector was, and he impressed it on my mind. Then I have met Mr. Russell ever since. Most every session of Congress I have met him on several occasions, and he oftentimes would speak about this case.

Question. Have you any knowledge of the hot springs—their location?

Answer. I know they are very valuable springs, situated in a valuable locality in Arkansas.

Question. Have you any knowledge of Mr. Russell's efforts before Congress for the passage of a bill in reference to the hot springs?

Answer. I know that I saw Mr. Russell constantly there. I was in the employ of the Senate at the time, and I saw him constantly there working through this claim.

Question. In this conversation about the contract which occurred between Mr. Russell and Mr. Rector at Bunker's Hotel, was the name of the party from whom title was derived mentioned, and the name of the place?

Answer. I cannot say. It has been a long time. I cannot say that I remember the name of the party. I know that there was some name mentioned.

Question. But you recollect distinctly it related to the Hot Springs reservation in Arkansas?

Answer. Yes, sir; that I remember distinctly. There was a French name that was mentioned in connection with it, but I don't remember exactly the name.

Question. You only remember the purport of the conversation and the statements of Rector?

Answer. Yes, sir; I remember distinctly Mr. Rector's telling Mr. Russell to go ahead and prosecute; that he would extend his contract, and would let it run twenty years, if it required; that he could not
426 attend to it himself; that he would leave it entirely in the hands of Mr. Russell. That I remember distinctly.

Question. Did that seem to be the whole drift of the conversation—that the contract should be extended?

Answer. Yes, sir; to the best of my recollection.

Question. Did you see Mr. Rector about the Capitol at any time during the pendency of this bill before Congress?

Answer. I saw Mr. Rector, on two or three occasions after that, up about the rotunda or about the hotel—I cannot say which. It was after this conversation had transpired.

Question. But you are not certain that you saw him about the Capitol at all?

Answer. I would not be positive. It was most likely about the hotel. He was a remarkable-looking man, and a man who would once see him would never forget him.

Cross-examination waived by counsel for the United States.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the cause in question? If you do, state it.

Answer. I do not.

J. F. MOLLÈRE.

Subscribed and sworn to before me this 30th day of September, 1874.

JAMES L. ANDEM,
Commissioner of the United States Court of Claims.

The deposition of John Spicer, a witness on the part of the claimant in the above entitled cause, taken at Washington, D. C., on the 29th day of September, 1874.

First general interrogatory by the commissioner. Please state your

name, age, residence during the past year; your occupation; and whether you have any interest, direct or indirect, in the claim which is the subject of inquiry in this suit; and whether, and in what degree, you are related to the claimant.

Answer. My name is John Spicer. My age is fifty years. My occupation is dealing in railroad supplies. My residence the past year has been New York City. I have no interest, direct or indirect, in the claim which is the subject of inquiry in this suit, and I am in no degree related to the claimant.

In response to interrogatories by counsel for the claimant, Charles E. Hovey, esq., the witness says:

Question. State whether you are acquainted with Mr. John H. Russell and Mr. Henry M. Rector, or either of them?

Answer. I have known Mr. Russell since 1866.

Question. State whether you have any knowledge of the passage of a bill by Congress referring the title to the hot springs to the Court of Claims for adjudication, and Mr. Russell's connection therewith.

Answer. I think it was in the winter of 1869–'70 (though it might have been 1868–'69) that Mr. Russell was interested in a bill in regard to the hot springs property which was before Congress. He was the mover in the matter, and the man who controlled the bill. I don't know whether it was in his interest or not, but he was instrumental in getting this bill through, and worked for it.

Question. Were you present at a conference between Mr. Russell and Mr. Rector at any time when the subject of the extension of this contract was discussed; and, if so, what was the conversation?

Answer. I was. On a certain occasion, either at the St. James or the National Hotel, Mr. Russell introduced me to a man named Rector, in connection with this matter. As I understood it at that time, the time had passed in which Mr. Russell had any claim.

Question. Any claim upon whom?

Answer. Any claim on this hot springs property under the contract with Mr. Rector. Mr. Rector said that it would make no difference about that—about the time. The substance of what he said to Mr. Russell was: "You go ahead and manage the whole thing; it will not make any difference about the time—the limit of the time of our contract."

Question. That is, that the contract would be extended?

Answer. Yes, sir.

Question. Was any definite time mentioned?

Answer. No, sir.

Question. Was it, or not, the understanding that he should have any requisite amount of time he needed?

Answer. No time was fixed. He said, "Go ahead. I will leave this for you to manage."

Question. Was there any reason given, and, if so, what reason, why he himself could not appear or act?

Answer. Well, he thought he had no influence with Congress under the circumstances in which he was placed then, and said he would leave the whole thing with Mr. Russell. As I understood it at that time, Mr. Rector (this gentleman that I saw) did not regard the time having expired as making any difference with their contract, but that Mr. Russell should go ahead just as if there was no time specified.

Question. And the contract should be continued in force?

Answer. Yes, sir; certainly.

Question. About what time did this conversation take place?

Answer. Well, I cannot fix the date precisely. It was some time during the winter of 1867–'68.

Question. That is your impression?

Answer. Yes, sir.

Cross-examination waived by counsel for the United States.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the cause in question? If you do, state it.

Answer. No; I do not think I do.

JOHN SPICER.

Subscribed and sworn to before me this 30th day of September, 1874.

JAMES L. ANDEM,
Commissioner of the United States Court of Claims.

The deposition of R. W. Johnson, a witness on the part of the claimant in the above-entitled cause, taken at Washington, D. C., on the 29th day of September, 1874.

First general interrogatory by the commissioner. Please state your name, age, residence during the past year; your occupation; and whether you have any interest, direct or indirect, in the claim which is the subject of inquiry in this suit; and whether, and in what degree, you are related to the claimant.

427 Answer. My name is R. W. Johnson. My age is over sixty years. My occupation is that of a lawyer. My residence the past year has been Washington, D. C. I am one of the attorneys in this case, and have an interest to the extent of our fees, as one of the firm of Pike & Johnson. I am in no degree related to the claimant.

In response to interrogatories by counsel for the claimant, Charles E. Hovey, esq., the witness says:

Question. Please look at the signature to the title-deed now shown you, and state whose it is.

(Handing paper marked "Exhibit A, John H. Russell," to witness.)

Answer. I have looked at it. It is Mr. Henry M. Rector's signature. There is no doubt about its being his signature.

Question. Are you acquainted with the handwriting of Mr. Rector?

Answer. Yes, sir; I have seen him write. He writes a tolerably rapid regular, disconnected hand, and hard to read.

Question. Are you acquainted with the handwriting of either of the subscribing witnesses?

Answer. No, sir. I cannot swear to the signatures of the witnesses, I know Elias Rector, one of the witnesses, very well, and have seen him write, but I would not swear to his signature. I don't know any of the signatures that are there except that of the grantor, Mr. Henry M. Rector.

Cross-examination waived by counsel for the United States.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the cause in question? If you do, state it.

Answer. I do not know of anything that I wish to state.

R. W. JOHNSON.

Subscribed and sworn to before me this 30th day of September, 1874.

JAMES L. ANDEM,
Commissioner of the United States Court of Claims.

EXHIBIT A, JOHN H. RUSSELL.—J. L. A.

Know all men by these presents that, for and in consideration of the sum of ten thousand dollars ($10,000.00) to me in hand paid, the receipt whereof is hereby fully acknowledged, I have bargained & sold and quitted claim, & do hereby quitclaim, unto John H. Russell, all my right, interest, & title, of whatever character & description, in and to two hundred arpens of land, equal to one hundred and seventy & fifteen-hundredths acres of land, situate & lying in the county of Hot Spring, in the State of Arkansas, surveyed for Francis Langlois, as per certificate numbered 467 & survey 2903, said certificate numbered 467 issued by Frederic Bates, recorder of land-titles, on the 26th November, 1818, and known as the New Madrid location, covering the hot springs, to have and to hold the same to the said John H. Russell, his heirs & assigns; but I do not warrant the title to said land, but only give this as a quitclaim deed.

Witness my hand & seal this the 5th day of March, A. D. 1867.

HENRY M. RECTOR. [SEAL.]

In presence of—
E. RECTOR.
THO. H. WALKER.

[$10 U. S. internal-revenue stamp—probate of will—affixed and canceled.]

STATE OF ARKANSAS,
County of Pulaski, sct:

Be it it remembered that, on this the 5th day of March, personally came and appeared before me, clerk of the circuit court in & for said county & State, the above-named Henry M. Rector, and acknowledged that he had signed & sealed the foregoing deed for the uses & purposes & consideration therein named, & desired me to so certify, this the date above written.

In testimony whereof I hereunto set my hand as such clerk and affix the seal of my office, in the county and State aforesaid, on the day and year last aforesaid.

[SEAL] THO. H. WALKER, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Hugh McCallum, clerk of the circuit court and ex-officio recorder in and for said county & State, do hereby certify that the within deed was filed for record in my office on the 7th day of March, A. D. 1867, & the same, with the certificate & acknowledgement thereon, is now duly recorded in record-book G, page 468.

In testimony whereof I hereunto set my hand and affix the seal of said court this the 7th day of March, A. D. 1867.

HUGH McCALLUM,
Clerk & Ex-officio Recorder.

The deposition of John Wilson, a witness on the part of the claimant in the above-entitled cause, taken at Washington, D. C., on the 29th day of September, 1874.

First general interrogatory by the commissioner. Please state your name, age, residence during the past year; your occupation, and whether you have any interest, direct or indirect, in the claim which is the sub-

ject of inquiry in this suit; and whether, and in what degree, you are related to the claimant.

Answer. My name is John Wilson. My age is sixty-six years. My occupation is that of an attorney. My residence the past year has been Washington, D. C. I have no interest, direct or indirect, in the claim which is the subject of inquiry in this suit; and I am in no degree related to the claimant. I am advocating a claim adverse to Mr. Rector, and consequently adverse to this claimant.

In response to interrogatories by counsel for the claimant, Charles E. Hovey, esq., the witness says:

Question. Please state what you know, if anything, of the action of Mr. Russell in securing the passage of the bill known at the "Hot Springs bill."

Answer. While I was engaged before the committee, which included, I believe, almost every meeting they held from the time the matter was brought before them until the bill was finally reported by them, I repeatedly saw Mr. Russell busily engaged among the committee, urging, as I presumed, the adoption of such measures as would best promote his own interests. I knew he claimed, under Rector, an interest in the Hot Springs case, but what he did, the particulars of what he did,
428 or what he succeeded in doing, I am not able to say, for I never took the pains to ascertain. That is all I can say on that subject.

Question. Do you know Mr. Rector personally?

Answer. I don't know that I can say yes or no. I have not seen him for a great many years, and I do not think I should know him now if I saw him.

Question. Do you know whether he appeared before the committee or was present at any of the meetings?

Answer. I am not aware of it. I don't remember having seen him there. He may have been there; but, as I say, I don't think I should recognize him if I was to see him in a room.

Cross-examination waived by counsel for the United States.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the cause in question? If you do, state it.

Answer. I believe I know the whole case in all its ramifications; but, representing an opposing party, I would not deem it fair to express my views here before this commission.

JOHN WILSON.

Subscribed and sworn to before me this 30th day of September, 1874.

JAMES L. ANDEM,
Commissioner of the United States Court of Claims.

Deposition of Elias W. Rector, for claimant, taken at Little Rock, Ark., on the 9th and 10th days of February, 1874.

First general interrogatory by the commissioner. Please to state your name, your occupation, your age, your place of residence the past year; whether you have any, and, if any, what, interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is Elias W. Rector. I am a lawyer; am twenty-four years old. I have resided the past year in Hot Springs, Ark. I have no interest except that I am the son of the claimant, Henry M. Rector.

Interrogatory. State whether or not you are acquainted with Henry M. Rector, one of the parties to this suit, and also with John H. Russell, who is also a party to this suit by order of consolidation.

Answer. I am.

Interrogatory. State whether or not Mr. Russell is present now in the room.

Answer. He is.

Interrogatory. State when you first made the acquaintance of Mr. Russell; where it was and when it was, as near as you can recollect.

Answer. I first made his acquaintance at the city of Little Rock, at the Anthony House hotel, and was introduced to him by my father, H. M. Rector. I believe it was the 5th of March, 1867.

Interrogatory. State whether or not you were present in Mr. Russell's room, in the Anthony House, when a conversation transpired between your father and Mr. Russell in reference to the hot springs property, about the 5th of March, 1867.

(Question objected to by John H. Russell, one of the claimants, as the witness is an interested party.)

Answer. I was, and heard the conversation.

Interrogatory. State whether or not in that conversation between Mr. Russell and your father you learned and understood that an arrangement had been made just then between your father and Mr. Russell looking to the procurement and confirmation of title by the Congress of the United States to your father, of the hot springs property?

(Question objected to by John H. Russell, for same reason as above.)

Answer. I did.

Interrogatory. State, as well as you can, according to your best recollection, what the nature of that contract was, from the conversation you heard between Mr. Russell and your father, in reference to the hot springs property.

(Question objected to by John H. Russell, for same reason as above.)

Answer. As I understood the contract, Mr. Russell was to get a bill passed in Congress to confirm the New Madrid location or Langlois' claim within a certain time after the adjournment of Congress, then in session. If he succeeded in this effort he was to have a stipulated interest in the hot springs property. I do not know the amount of interest he was to get.

Interrogatory. State whether or not you were present, on or about the evening of the 5th of March, A. D. 1867, at Mr. Russell's room in the Anthony House, in Little Rock, when the papers were signed by Russell and your father, and acknowledged before Thomas H. Walker, who was then clerk of the circuit court of Pulaski County, Arkansas, which papers were prepared and executed evidencing this contract and
429 agreement in reference to the hot springs property, entered into as you have above referred to between your father and Mr. John H. Russell.

(Question objected to by John H. Russell for the same reason as above.)

Answer. I was. I went with my father to the residence of Thomas H. Walker, the clerk of Pulaski County, after night, about eight or nine o'clock, to get him to go to Mr. Russell's room and acknowledge the instruments, which he did. I saw them signed by Russell and my father. They were witnessed by myself, and, as well as I can remember, by Thomas H. Walker; and they were acknowledged in my presence.

Interrogatory. State, according to your recollection, how many papers there were signed and executed upon that occasion?

(Question objected to by John H. Russell, for the same reasons as above.)

Answer. As well as I remember, there were ten papers.

Interrogatory. Please examine a paper which now, by the permission of the Hon. Henry C. Caldwell, is in the possession and upon the table of the commissioner who now takes this testimony, and state, to the best of your knowledge and belief, whether or not that is not one of the papers which was executed, and acknowledged, and witnessed by yourself in Russell's room, at the Anthony House, on that evening of the 5th of March, 1867, evidencing the contract between Russell and your father at that time.

(Question objected to by John H. Russell, for the same reasons as above.)

Answer. I have examined it; recognize my signature fully as witness, and am certain that it is the same paper.

Interrogatory. Please state whether you are acquainted or not with A. H. Garland, attorney at law, in this city; whether or not you have seen him write; whether or not you are acquainted or familiar with his handwriting, and, if you are, and have seen him write, and are familiar with his hand, please examine this original deed made by Russell to your father, signed by Russell, witnessed by yourself and acknowledged before Walker, clerk, and state what portion of that deed is in the handwriting of Garland, and what other portion in the handwriting of the clerk, Walker, what other is in your own handwriting, and so on as far as you know the handwriting of the superscriptions indorsed upon the deed by other parties.

(Question objected to by John H. Russell for the same reasons as above.)

Answer I am acquainted with A. H. Garland; know him intimately. I have seen him write often, and am perfectly familiar with his handwriting, as he has been my father's lawyer for a number of years. The whole body of the deed, substantially, including the interlineations, is in the handwriting of A. H. Garland. I am not familiar with Walker's handwriting, but he acknowledged the deed in my presence. My signature, "E. Rector," is in my handwriting. I have, since I witnessed the deed, adopted the middle name "William" of my deceased brother. The signature "John H. Russell" is his, as I saw him sign; also I know the signature of "Walker," and saw him sign as witness. The indorsement on the back of the deed, "John Russell, deed to H. M. Rector," and "reconveyance to hot spring property," are in my father's (H. M. Rector) handwriting. I know nothing of the other indorsements.

Interrogatory. State whether or not upon that occasion, of the evening of the 5th of March, 1867, when you were present at the room of Mr. Russell, at the Anthony House, Little Rock, you saw Mr. John H. Russell pay to your father, H. M. Rector, one United States thousand-dollar bond, with some coupons attached, and was that paid by Russell at the time these papers you refer to were executed; and, if so, from the conversation you heard between Mr. Russell and your father upon that occasion, state whether it was paid in connection with that transaction had between Mr. Russell and your father in reference to the hot springs; and, if so paid, state upon what considerations and conditions it was so paid by Russell to Rector, as you understood from both Rector and Russell from their conversation on the subject.

(Question objected to by John H. Russell for the same reasons as above.)

Answer. I saw Mr. Russell pay my father a thousand-dollar bond

with some coupons attached; it was paid immediately after the papers I refer to were executed. From the conversation I heard between my father and Mr. Russell the thousand dollars was paid as a forfeiture or bonus for the privilege of trial to get a confirmation of the New Madrid claim on the part Mr. Russell within a stipulated time.

Interrogatory. State whether or not you recollect that Mr. Russell paid some other moneys amounting to thirty or forty dollars to defray the expenses of the acknowledgment of the paper by Walker, clerk, and to defray the expenses of having the deed sent out to Rockport, and having the deeds recorded in Hot Spring County. If you cannot state the amount so paid by Russell, precisely, for those purposes, state as near as you recollect.

(Question objected to by John H. Russell, for the same reasons as above.)

Answer. My impression is that Mr. Russell paid Mr. Walker for the acknowledgment of the deeds, and also gave my father money to send a messenger to Rockport to have the deeds recorded.

Interrogatory. State whether or not you recollect after these two papers were executed and acknowledged they were left in the possession or delivered to your father to be sent out to Hot Spring County, for the purpose of being recorded there.

(Question objected to by John H. Russell, for the same reasons as above.)

Answer. I do not remember in whose possession they were left, but my father, the morning of the 6th March, 1867, sent a young man by the name of Bob Robinson, who was then staying with our family, to Rockport, Hot Spring County, with the deeds, to have them recorded. Robinson returned in a day or two, and my understanding was that they had been recorded.

Interrogatory. State whether or not, from the conversation you heard between Mr. Russell and your father upon the occasion when they made the agreement about the hot springs property, it was your understanding or not, that if Mr. Russell did not obtain a confirmation of the title to the springs for Rector, within the time specified, he was or was not, in virtue of that contract, to lose all interest in the property, as well as the thousand dollars paid to your father as a bonus or earnest, and also the money paid by Russell for the acknowledgment, recording, &c., of the deeds and instruments of writing.

(Question objected to by John H. Russell, for the same reasons as above.)

Answer. My impression is, as I before stated, that the thousand dollars and moneys paid by Mr. Russell to my father were for the mere privilege of getting a confirmation of my father's title to the hot
430 springs within a stipulated time, and upon failure to do so the money was forfeited, and he was to have no interest in the land unless he had the title confirmed.

Interrogatory. State whether or not you heard any expressions of opinion between Mr. Russell and your father at the time they made that contract, in reference to the probability of Russell's obtaining a confirmation of title to Rector by Congress; and, if so, state what opinion your father expressed to Mr. Russell upon that subject; what Mr. Russell stated to your father in reply in your presence?

(Question objected to by John H. Russell, for the same reasons as above,)

Answer. I heard a conversation on this subject between the parties. My father's words to Russell were to this effect: Russell you can't get

that title confirmed. in my opinion, within the stipulated time. I don't remember, the exact words. Mr. Russell's response was, as well as I remember, that by his means and influence with Congress he could do so. This conversation occurred in the office at the Anthony House, on the night of the 5th of March, 1867, just before my father and myself bid Mr. Russell adieu. My impression is that he left the city next morning.

(Upon motion of Henry M. Rector, the paper hereto attached and marked "Exhibit A" is annexed to this deposition. Mr. John H. Russell objects to its introduction.)

Interrogatory. Please examine this paper, marked "Exhibit A," and make it a part of your deposition, and compare it with the original deed now in the possession of the commissioner who takes this testimony, and state whether or not from such comparison it is not a correct copy of the original.

(Question objected to by John H. Russell for the same reasons as above.)

Answer. I have examined and compared this paper, A, and find it a correct copy of the original.

Examined by John H. Russell, for himself:

Interrogatory. State, if you please, when you say you witnessed this instrument of writing, in your direct evidence, you took it and read it through and noticed the interlineations and erasures?

Answer. I did not read the deed and of course I did not notice any interlineations or erasures.

Interrogatory. At this transaction on the 5th of March, 1867, did you see your father, H. M. Rector, pay John H. Russell any money or make or assign any instrument of writing agreeing to pay any money.

Answer. I did not see my father pay Mr. Russell a cent of money that I can remember, nor did I see any written obligation to pay any.

Interrogatory. Have you stated fully in your direct examination all you know that transpired between your father, H. M. Rector, and John H. Russell in relation to the hot springs reservation mentioned in the New Madrid certificate numbered 467, that you know of?

Answer. I think I have. There may be some little details that I do not remember.

Re-examined by Henry M. Rector:

Interrogatory. You state in one of your answers to the interrogatory propounded by Mr. Russell that, on the 5th of March, 1867, when Russell and Rector had that transaction about hot springs, that you did not see your father pay Russell any money or execute or give to Russell any writing or promise to pay any money. Please state now whether Russell paid Rector any money on that occasion, or executed any papers, or delivered any papers to Rector promising to pay any money besides the thousand dollars and the other small amounts which you have referred to in your examination-in-chief, and state whether, according to your understanding, all the money paid by Russell to Rector at that time, and state if that was all. State for what it was paid.

(Question objected to by John H. Russell for the same reason as above.)

Answer. I did not see Mr. Russell pay my father any money except the thousand dollars and the other small items before referred to, nor did I see him give any writing promising to pay. My understanding, as before stated, was that the thousand dollars and other items was a

bonus or forfeiture in case that the New Madrid claim was not confirmed at a stipulated time by Mr. Russell.

Second general interrogatory by the commissoner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know nothing more particularly except what I have stated in this and in a former deposition.

E. W. RECTOR.

Sworn to and subscribed before me this 10th February, A. D. 1874.

RALPH L. GOODRICH,
United States Commissioner.

EXHIBIT A.

Know all men by these presents that whereas Henry M. Rector has this day, for and in consideration of ten thousand dollars, ($10,000.00,) conveyed to me all his right & title, by quitclaim deed, in and to two hundred arpens of land, equal to one hundred and seventy and fifteen hundredths acres of land, as evidenced by certificate numbered 467, & survey numbered 2903, said certificate issued by Frederic Bates, recorder of land-titles, on the 26th day of November, A. D. 1818, lying and being in Hot Spring County, State of Arkansas, known as the New Madrid location, covering the hot springs; and whereas said Rector is desirous of purchasing back all of his said interest except as to one-half of the land now in dispute & in litigation between him, the said Rector, the heirs of Ludovicus Belding, deceased, and John C. Hale, in a suit in chancery now pending in the circuit court of said Hot Spring County; and whereas for such purchase back by said Rector, he has this day paid me the sum of five thousand dollars, ($5,000,) the receipt of which is hereby fully acknowledged: Now, therefore, I do hereby sell, grant, and quitclaim unto the said Rector, his heirs & assigns, all of said land, except the one-half of the land in dispute & litigation as aforesaid; and as to said land so in dispute & litigation as aforesaid the said Rector & myself are to be & remain joint owners; provided that within twenty days after the adjournment of the first session of the present 40th Congress, I shall have secured & shall bring and produce to the said Rector a confirmation, entire, full, & complete, by the Congress of the United States, of the title of said Francis Langlois in & to said land as named in said certificate numbered 467, as now indicated; but in case I should fail to secure & bring and produce such confirmation of title by the Congress as aforesaid, then I am to have no claim whatever in & to any said land as named in certificate numbered 467; and the said deed from said Rector to me of this date is to be null & void, & wholly inoperative.

431 The one-half of the land in dispute & litigation hereinbefore referred to, includes & has reference to only that land in dispute between the said parties aforementioned, & does not refer to any land except that which is included within the limits, or supposed limits, of the southwest quarter of section thirty-three, (33,) township two (2) south, range nineteen west, (19 west.)

And said deed from said Rector to myself is not to interfere with the said Rector, in any manner, in his possession & receiving of rents of the property, or any of it, in said land until the confirmation of title as aforesaid is procured & brought to him, and from that date he is to

surrender possession thereof to myself of the one-half thereof as hereinbefore stipulated & mentioned.

Witness my hand & seal this 5th March, A. D. 1867.

JOHN H. RUSSELL. [SEAL]

In presence of—
E. RECTOR.
THO. H. WALKER.

[Five dollar int. rev. stamp canceled. March 5, 1867. $5. J. H. Russell.]

STATE OF ARKANSAS, *County of Pulaski:*

Be it remembered that, on this the 5th day of March, A. D. 1867, before me, clerk of the circuit court within and for said county and State, personally came & appeared the above-named John H. Russell, whose name is signed to the foregoing deed, and acknowledged that he had executed the same for the uses, purposes, & consideration therein named & set forth, & desired me to so certify. This the date above.

In testimony whereof I hereunto set my hand as such clerk, and affix the seal of my office in the county and State aforesaid, on the day and year last aforesaid.

[SEAL.] THO. H. WALKER, *Clerk.*

STATE OF ARKANSAS,
County of Hot Spring:

I, Hugh McCallum, clerk of the circuit court and ex-officio recorder in and for said county, do hereby certify that the foregoing deed was filed for record in my office on the 7th day of March, 1867, and the same, with the certificate of acknowledgement thereon, is now duly recorded in record-book Y, page 466 & 467.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, March 7th, 1867.

[SEAL.] HUGH McCALLUM,
Clerk & Ex-officio Recorder.

Copy. Exhibit A to deposition of Rector. Ralph L. Goodrich, U. S. com'r.

(Indorsed:) 6245. John Russell to H. M. Rector. Deed. Reconveyance of hot spring property. Exhibit A to deposition of J. H. Russell. J. R. Filed Dec. 17, 1872. J. R.

6246. John H. Russell vs. The United States. Depositions of S. W. Harrington for clmt., and of E. W. Rector for H. M. Rector, clmt. 6245. Filed Feb. 18, 1874. J. R. To be used also in 6203, 6208, 6244, and 6245.

Mr. Pike, on the behalf of Henry M. Rector, offers here the following rebutting evidence, received and filed in the Court of Claims.

HENRY M. RECTOR
vs. } No. 6245.
THE UNITED STATES.

DISTRICT OF COLUMBIA,
Clerk's Office, Court of Claims:

On this 9th day of December, A. D. 1873, at the hour of 2 o'clock p. m., in accordance with notice duly served, personally appears John H. Russell, a witness su bpœnaed in behalf of the claimant aforesaid. The

claimant appears by his attorney, John B. Sanborn, esq., and the defendants by Mr. Gray, due notice having also been served upon the counsel of the several consolidated cases as required in the order of the court of June 4, 1873. John Wilson, esq., and C. F. Peck, esq., appear in the case of William Gaines and others vs. The United States, No. 6208; and Chas. E. Hovey, esq., in the case of John H. Russell vs. The United States, No. 6246; the counsel, F. P. Stanton, esq., in the case of John C. Hale vs. The United States, No. 6203; and the counsel, Joseph Casey, esq., in the case of Mackay & Gitt vs. The United States, No. 6244, although duly notified, do not appear.

At the request of Charles E. Hovey, esq., counsel in the case of John H. Russell vs. The United States, (each of the counsel present in the several consolidated cases, and the counsel for the defendants consenting thereto,) the examination of said witness is postponed until Tuesday, December 16, 1873, at the same hour and place as aforesaid.

JOHN RANDOLPH,
Commissioner of the Court of Claims.

DEC. 9, 1873.

CLERK'S OFFICE, COURT OF CLAIMS,
December 16, 1873.

Pursuant to the adjournment aforesaid, now personally comes the witness, John H. Russell, on this 16th day of December, A. D. 1873, at 2 o'clock p. m. Present, John B. Sanborn, esq., counsel for Henry M. Rector against The United States; John Wilson, esq., counsel for Wm. Gaines et al. against The United States; Chas. E. Hovey, esq., counsel for John H. Russell vs. The United States; and Mr. Gray, for the defendants.

The said witness, JOHN H. RUSSELL, being first sworn to tell the truth, the whole truth, and nothing but the truth, thus deposes and says:

First general interrogatory by the commissioner. Please state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is John H. Russell; my occupation, none—general business. My age is forty-nine years; my residence, Washington, D. C. I have this interest, that I claim the hot springs—the two hundred arpents of land containing the hot springs. I am in no degree related to the claimant Henry M. Rector.

Being interrogated by the counsel for Henry M. Rector, John B. Sanborn, esq., the witness says.

432 Question. Mr. Russell, will you examine this paper and state whether or not the signature of John H. Russell thereon is your signature, and whether the paper is the pretended deed or instrument referred to by you in your supplemental petition in your case against the United States consolidated with this?

(Objected by the counsel for the Government, and by the attorney for John H. Russell and by the attorney for William Gaines et al., that the witness is an interested party.)

Answer. This signature on this paper, marked by the commissioner "Exhibit A," I think, is mine. So far as regards the second point in the question, there is so much interlining and erasing that it is far different from the instrument referred to in my supplemental petition.

(Counsel for the Government further objects to the question and to the answer.)

Question. State whether or not there is any other instrument, in writing, executed by you to Henry M. Rector, and delivered to him, pertaining to the Hot Springs of Arkansas, or the title to lands including them.

Answer. Not that I know of.

Question. State whether or not that instrument, except where interlined or erased, has been changed since its execution.

Answer. I am not able to say.

Cross-examination by the Government counsel waived.

Examination by counsel for Wm. Gaines et al. also waived.

Examination by counsel for John H. Russell:

Question. State whether the moneyed consideration, mentioned in the paper marked "Exhibit A," about which you have been testifying was paid or agreed to be paid to you, or any part thereof.

(Objected to by counsel for Henry M. Rector as incompetent, immaterial, and no cross-examination.)

Answer. There never was any money or any other obligation paid; there was never any agreement to be paid by Henry M. Rector to me.

Question. At the time of signing said paper were the erasures and interlineations which now appear on it?

Answer. Not that I know of. I never noticed any. If there had been any I should have noticed them.

Redirect examination by John B. Sanborn, esq.:

Question. Will you swear positively that these interlineations and erasures were not on this paper when you signed it?

Answer. I cannot state any fuller than I have done.

Question repeated.

(Question objected to as leading by the counsel for John H. Russell.)

Answer. I can say that I never knew that I saw them before until within the last month.

Question. You are not then willing to swear that they were not there when you signed the paper?

(Same objection made to this question.)

Answer. I say I have never noticed them before until within the last month.

Question. You admit, then, they may have been there, but you did not see them?

Answer. I can't say I admit that.

Question. Will you say that you deny it?

(Objected to again as leading by counsel for J. H. Russell.)

Answer. I can't say anything further than I have said before, that I never saw them until within the last month.

Question. State whether or not, on the fifth day of March, A. D. 1867, you had a transaction with H. M. Rector in regard to the hot springs claim.

Answer. I did on that day have a transaction with him, and that he deeded to me the hot springs reservation. I mean the hot springs claim—all the land in certificate No. 467. He deeded to me all his right, title, and interest; for which I paid him one United States bond of one thousand dollars, with interest, and in the neighborhood of thirty or forty dollars in money. Upon that payment he surrendered to me the deed which I set up in my petition.

(All the foregoing answer after the words "I did," in the first line,

objected to by counsel for Henry M. Rector as not responsive to the question.)

Question by commissioner. State whether you know anything further in relation to this claim.

Answer. I believe I have stated all.

J. H. RUSSELL.

Answered, sworn to, and subscribed before me this 16th day of December, 1873.

[SEAL.] JOHN RANDOLPH,
Commissioner Court of Claims.

EXHIBIT A.

Know all men by these presents that whereas Henry M. Rector has this day, for and in consideration of ten thousand dollars, ($10,000,) conveyed to me all his right & title, by quitclaim deed, in and to two hundred arpens of land, equal to one hundred and seventy & fifteen hundredths acres of land, as evidenced by certificate numbered 467 & survey numbered 2903; said certificate issued by Frederic Bates, recorder of land-titles, on the 26th day of November, A. D. 1818, lying and being in Hot Spring County, State of Arkansas, & known as the New Madrid location, covering the hot springs; and whereas said Rector is desirous of purchasing back all of his said interest, except as to one-half of the land now in dispute & in litigation between him, the said Rector, the heirs of Loudovicus Belding, deceased, and John C. Hale, in a suit in chancery now pending in the circuit court of said Hot Spring County; and whereas for such purchase part by said Rector he has this day paid me the sum of five thousand dollars, ($5,000,) the receipt of which is hereby fully acknowledged: Now, therefore, I do hereby sell, grant, & quitclaim unto the said Rector, his heirs, & assigns, all of said land, except the one-half of the land in dispute & litigation as aforesaid, and as to said land so in dispute & litigation as aforesaid, the said Rector & myself are to be & remain joint owners; provided that, within twenty days after the adjournment of the first session of the present (40th) Congress, I shall have secured, & shall bring & produce to the said Rector a confirmation, entire, full, & complete, by the Congress of the United States, of the title of said Francis Langlois in & to said land, as named in said certificate numbered 467, as above indicated; but in case I should fail to secure & bring, and produce such confirmation of title by the Congress as aforesaid, then I am to have no claim whatever in & to any of said land as named in certificate numbered 467, and the said deed from said Rector to me of this date is to be null & void, & wholly inoperative.

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The one-half of the land in dispute & litigation, hereinbefore referred to, includes & has reference to only that land in dispute between the said parties aforementioned, & does not refer to any land except that which is included within the limits, or supposed limits of the southwest quarter of section thirty-three, (33,) township two (2) south, range nineteen west, (19 west.)

And said deed from said Rector to myself is not to interfere with the said Rector in any manner in his possession & receiving of rents of the property, or any of it, on said land until the confirmation of title as aforesaid is procured & brought to him, and from that date he is to

surrender possession thereof to myself of the one-half thereof, as hereinbefore stipulated & mentioned.

Witness my hand & seal this 5th March, A. D. 1867.

JOHN H. RUSSELL. [SEAL.]

In presence of—
E. RECTOR.
THO. H. WALKER.

[Five-dollar int. rev. stamp, canceled.]

STATE OF ARKANSAS, *County of Pulaski:*

Be it remembered that, on this the 5th day of March, A. D. 1867, before me, clerk of the circuit court within and for said county & State, personally came & appeared the above-named John H. Russell, whose name is signed to the foregoing deed, and acknowledged that he had executed the same for the uses, purposes, & consideration therein named & set forth, & desired me to so certify. This the date above.

In testimony whereof I hereunto set my hand as such clerk, and affix the seal of my office in the county and State aforesaid, on the day and year last aforesaid.

[SEAL.] THO. H. WALKER, *Clerk.*

STATE OF ARKANSAS, *County of Hot Spring:*

I, Hugh McCallum, clerk of the circuit court and ex-officio recorder in and for said county, do hereby certify that the foregoing deed was filed for record in my office on the 7th day of March, A. D. 1867, and the same, with the certificate of acknowledgement thereon, is now duly recorded in record book G, pages 466 & 467.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, March 7th, 1867.

[SEAL.] HUGH McCALLUM,
Clerk and Ex-officio Recorder.

(Indorsed:) 6245. John Russell to H. M. Rector. Deed reconveyance of hot spring property. Exhibit A to deposition of J. H. Russell. J. R. Filed Dec. 17, 1873. J. R.

The deposition of Augustus H. Garland, for claimant, taken at Little Rock, Ark., on the 2d day of March, A. D. 1874.

First general interrogatory by the commissioner. Please state your name, your occupation, your age, your place of residence the past year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry, and whether, and in what degree, you are related to the claimant.

Answer. My name is Augustus H. Garland; am a lawyer; am forty-two years of age; have resided in Little Rock the past year. I have no interest whatever in the claim in question, nor am I related to the claimant in any degree whatever, and state as follows: About the 5th of March, 1867, Henry M. Rector and John H. Russell came together to my office in the city of Little Rock and reported to me they had agreed upon terms as to the sale of an interest in Rector's New Madrid claim to the hot springs of Arkansas to said Russell, and desired me to draw the necessary paper. Rector and Russell, after furnishing me with the terms and conditions of their agreement, I drew the deed of that date here shown me, signed by said Russell and witnessed by E. Rector and Thomas H. Walker. The whole of said deed, including the acknowl-

edgment, is in my handwriting. The three interlineations in said deed on the first and second pages are in my handwriting, and were put in in presenc of Rector and Russell, because in drawing the deed I misunderstood them as to the property covered, and on reading the deed to the parties my attention was called to this, and the first two interlineations were inserted to specify more especially the particular parts of Rector's claim, he, Rector, having his New Madrid claim and being then, as supposed, interested in Mr. Hale's claim not covered by the New Madrid location. The third interlineation was inserted at the same time to specify the deed referred to particularly, as this conveyance speaks of two deeds. On that day, 5th March, 1867, in the presence of Rector and Russell, is the last time I ever saw the deed here spoken of until it was produced to me here on this examination.

The whole matter of contract between Russell and Rector was known to me; I was consulted about the same by both of them, and I regarded then as I regard it now all but as one transaction, and at that time Russell represented himself to have influence at Washington City; said he thought he could get the title on the New Madrid location confirmed if he had control of it, and could show this at Washington City. Upon this statement, after consultation, it was agreed to enter into the arrangement as indicated in the deed between Rector and Russell, and it was done solely with a view to give Russell the ostensible ownership of the property to control influence at Washington City, and he paid Rector one thousand dollars for this privilege, but it was not stated by any one that Russell had, under this arrangement, any greater right or interest than I have specified above, and certainly if I had believed any greater interest than that was being transferred to Russell I would not have advised the transfer.

Interrogatory. Were you notified to attend here as a witness on the 9th of February last in the above cause?

Answer. I was.

Interrogatory. By whom, and when?

Answer. By H. M. Rector, about ten days before the 9th February last.

Interrogatory. Why did you not attend as a witness then?

Answer. Because, as I told Rector previously, I had to be at the court in Hot Springs County on that day, a court I had attended regularly for seventeen years, and could not be absent from it without great loss, but to adjourn the taking of my deposition till the 2d March, 1874, when I would be here.

Second general interrogatory by the commissioner. Do you know of any other matter relative to the claim in question? If you do, state it.

Answer. I know of nothing more; but on examining the deed above alluded to, I find an interlineation on the top line of the second page which had escaped my attention in my testimony above; that interlineation contains the words "as aforesaid," referring to the Fortieth Congress, and nothing more.

A. H. GARLAND.

Subscribed and sworn to before me this 2d March, A. D. 1874.

[SEAL.] RALPH L. GOODRICH,
United States Commissioner.

434 The following evidence was received and filed in the Court of Claims of the United States, and was upon the trial of these consolidated cases read by Mr. John Wilson, as counsel, in behalf of

the claim of William H. Gaines et al., (from page 434 to page 587 of this record.)

Belding's pre-emption proof made in 1839.—*Certified copies of papers from General Land-Office.*

GENERAL LAND-OFFICE,
August 27, 1870.

I, Jos. S. Wilson, Commissioner of the General Land-Office, do hereby certify that the annexed copies of papers, connected with the case of "Hot Springs," Arkansas, except the letters and words inclosed in brackets [ ], are true and literal exemplifications from the files of this Office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land-Office.

435 EXHIBIT A.

[Examined.]

HOT SPRINGS, ARKANSAS, *November* 18, 1841.

To the COMMISSIONER OF THE GENERAL LAND-OFFICE,
At Washington City, D. C.:

DEAR SIR: Enclosed you will find the proof of a pre-emption right to the hot springs in this State. The depositions enclosed are a copy from the original on file at Washington, Arkansas, certified by D. S. Witter, receiver, and recorded in the clerk's office at this place. The claim has not been acted upon at the Washington Land-Office, on account of older claims which have not been disposed of, also claiming the springs; and therefore this claim was merely filed to be acted upon at some future time. It is, however, understood that these older claims are invalid, in which case it is desired that this claim may be acted upon. I have requested Hon. Saml. McRoberts to examine and attend to whatever may be necessary in relation to this claim.

436 The claim is in favor of the heirs of Ludovicus Belding, deceased, and I am authorized by the widow, Mrs. Lydia Belding, to do anything which may be necessary in relation to this claim. I should be glad to know if anything desirable may be done in the matter. Please file the papers relating thereto in your Office and write me on the subject.

Respectfully,

LAWSON RUNYON.

UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Springs:

Pre-emption right.—Lydia Belding, in right of her husband, Ludovicus Belding, deceased.

MARCH 7*th*, 1839.

Personally appeared before me, A. N. Sabin, a justice of the peace, Lydia Belding, and being first sworn for the purpose, deposeth

437 and saith that she and her said husband were living at the hot springs in February, A. D. 1828, on the southwest quarter of section 33, township 2 south, range 19 west, or rather on the west half of the said section 33, as it is presumed that a legal subdivision of the said section 33 will leave the dwelling-house on the southwest quarter of the said section 33 and the cultivated ground on the northwest quarter of the same section, (33.) And further this deponent sayeth that living on the west half of said section 33, in February, A. D. 1828, she and her said husband continued to live at the same place throughout the whole of the year A. D. 1829, and that she and her said husband had ground enclosed with a fence, wherein they ploughed and cultivated corn, potatoes, peas, beans, etc., etc., in the year A. D. 1829. And further this deponent sayeth that although her said husband leased many privileges in the Hot Springs Valley to Asa Thompson in February, A. D. 1830, yet still she and her said husband reserved
438 two houses for their own use, which two said houses she and her said husband had in their possession throughout all the month of May, A. D. 1830; and until August, 1830; and one of the said houses she and her said husband continued to keep possession of throughout all the year A. D. 1831, and so on until it rotted away.

And further this deponent sayeth not.

LYDIA BELDING.

Done before me this 7th of March, 1839.

A. N. SABIN, *J. P.*

At the above date personally appeared before me, A. N. Sabin, a justice of the peace, Samuel Sentor, and first being sworn for this purpose, stated on oath that L. Belding resided in the Hot Spring Valley on the 2nd day of May, A. D. 1829, and that he, L. B., cultivated the ground and resided there throughout all the summer and winter of A. D. 1829; and although L. Belding moved his family from the
439 valley in the spring of 1830, yet still L. Belding reserved two houses for his own use, which said two houses *was* in the use and possession of Ludovicus Belding throughout all the summer of 1830.

And further this deponent sayeth not.

SAMUEL SENTER.

Done before me, March 7th, 1839.

A. N. SABIN, *J. P.*

At this date, March 7th, 1839, personally appeared before me, A. N. Sabin, a justice of the peace, William Davis, and first being sworn for the purpose, stated on oath that he (witness) ploughed the ground in the Hot Spring Valley in the spring of the year A. D. 1829 for Ludovicus Belding to plant, cultivate, etc., and that he (witness) was paid for his work and ploughing by L. Belding.

And further deponent sayeth not.

WILLIAM his + mark. DAVIS.

Done before me, March 7th, 1839.

A. N. SABIN, *J. P.*

440 At this date, March 7th, 1839, personally came before me, A. N. Sabin, a justice of the peace, Jonathan Bassett, and being first sworn for the purpose, deposeth and sayeth that the foregoing deposi-

tion of Lydia Belding is essentially and entirely the truth, as of his own certain knowledge.

And further this deponent sayeth not.

JONATHAN BASSETT.

Done before me, March 7th, 1839.

A. N. SABIN, *J. P.*

I, A. N. Sabin, hereby certify that all the foregoing witnesses are of the first respectability in our land, and their testimony in this case is entitled to full credit.

March 7th, 1839.

A. N. SABIN, *J. P.*

We, whose names are hereunto subscribed, do hereby certify that all the foregoing witnesses are of the first respectability, and their testimony is entitled to full credit.

LAWSON RUNYON.
DAVID BASSETT.
THOMAS HOLMAN.

441 UNITED STATES OF AMERICA,
State of Arkansas, County of Hot Spring:

A. D., March 9th, 1839, Lydia Belding, in right of her husband, Ludovicus Belding, deceased: Whereas it is supposed that a part of the cultivation of the said L. Belding was made on the northwest quarter of section 33, township 2 south, range 19 west, and a part on the southwest quarter of the same section, (33:) Therefore, I, Lydia Belding, in right of my husband, Ludovicus Belding, deceased, do relinquish all claim or pretention to pre-emption on the northwest quarter of section 33, and if allowed by law to hold pre-emption, I wish to hold it on the southwest quarter of section 33, township 2 south, range 19 west.

LYDIA BELDING.

STATE OF ARKANSAS,
County of Hot Spring:

442 I, Lawson Runyon, clerk of the circuit court and ex-officio recorder within and for the county aforesaid, do hereby certify that the annexed and foregoing pre-emption-proof or instrument of writing was filed for record in my office on the 18th day of October, A. D. 1841, and the same is now duly recorded in record book A, of deeds and mortgages, pages 249, 250, 251.

In testimony whereof I have hereunto set my hand, as clerk aforesaid, and affixed the seal of said court at Hot Springs, this 19th day of October, A. D. 1841.

[SEAL.] LAWSON RUNYON,
Clerk and Ex-officio Recorder.

And I further certify, at the same time and place, that I was present at the taking of the depositions and proof of the pre-emption aforesaid before A. N. Sabin, who was at that time an acting justice of the peace, legally commissioned and qualified and acting in his official
443 capacity, and full credit is due to all his official acts as such justice of the peace.

LAWSON RUNYON,
Clerk of Hot Spring Circuit Court.

STATE OF ARKANSAS,
County of Hot Spring, ss:

Be it remembered that Lawson Runyon this day personally appeared before me, John C. Kuykendal, an acting justice of the peace within

and for the county of Hot Spring and State aforesaid, and on his oath deposeth and sayeth that he was deputed to present the within and foregoing proof of a pre-emption right to the commissioners of the land-office at Washington, Arkansas; that the same was duly filed with the register of said land-office on the 10th day of March, 1839, at which time and place he tendered payment for the quarter-section of land in said proof of pre-emption aforesaid mentioned, in gold and
444 silver coin of the United States, to the full amount of one dollar and twenty-five cents per acre or two hundred dollars, with the amount of all official and legal charges.

And further this deponent sayeth not.

LAWSON RUNYON.

Sworn and subscribed before me this 18th day of November, A. D. 1841.

J. C. KUYKENDAL, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, John C. Kuykendal, a presiding justice of the peace of the county court within and for the county of Hot Spring and State aforesaid, do hereby certify that the foregoing attestation of record is in due form and by the proper officer, to wit, the proper clerk of the circuit court of the county and State aforesaid, who is also ex-officio recorder by virtue of his office.

445 Given under my hand and seal, as such presiding justice, this 18th day of November, 1841.

[SEAL.] JOHN C. KUYKENDAL, *J. P.*

STATE OF ARKANSAS,
County of Hot Spring, ss:

I, Lawson Runyon, clerk of the circuit and county courts within and for the county of Hot Spring and State aforesaid, do hereby certify that John C. Kuykendal is one of the presiding justices of the peace of the county court of Hot Spring County, duly commissioned and qualified.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the official seal of said court at Hot Spring, this 18th day of November, A. D. 1841.

LAWSON RUNYON,
Clerk Hot Spring Circuit and County Courts.

{ SEAL OF CIRCUIT COURT }
{ OF HOT SPRING, ARK. }

446 Mr. Wilson offers, under general stipulation as to evidence, (see page 196 of this record,) from the record in the case of Wm. H. Gaines, Maria Gaines, Albert Belding, Henry Belding, George Belding, and John Wassell, assignee in bankruptcy of William H. Gaines, vs. John C. Hale and Henry M. Rector, now pending in Supreme Court of the United States, the following evidence:

Letter from Commr. G. L. O. to Secretary of the Interior. (*See Sup. C. R., printed page* 185.)

GENERAL LAND-OFFICE, *May 29th*, 1850.

SIR: I have the honor to enclose a letter to this office from A. H. Lawrence, esq., attorney of Lydia Belding, covering a printed argument

in behalf of her claim by pre-emption, under the act of 29th of May, 1830, to the land upon which is situated the Hot Springs, in Arkansas. Accompanying the above, I also transmit the testimony on file in this office for and against said claim.

As the land in question was included in the reserve "for the future disposal of the United States," made by the act of the 20th April, 1832, this office has heretofore held that the subsequent law of the 14th July, 1832, (granted to pre-emptors under act of 1830, the privi-
447 lege of entering the land claimed within a year after the return of the township plat to the proper district office,) was inoperative on said land, because of said reservation; but the Supreme Court of the United States has during its present session, in the case of Lyttle vs. The State of Arkansas, decided that this act of 14th July, 1832, was, in effect, merely providing the means by which a previously-existing right could be consum'ated, and that such rights, under the act of 1830, could not be affected by a subsequent law of Congress, making other disposition of the land. Under these circumstances the question arises whether the recent opinion of the Attorney-General as to the confirmation of the New Madrid claim on this land by the act of 1st March, 1843, has not been overruled by this decision of the Supreme Court. If the settlement and occupation of Lydia Belding was such as to give her a valid claim, under the act of 29th of May, 1830, the land officers
448 having never giving any decision on this claim, because of the reservation of the land by the act of April 20, 1832, the latter question should, in my opinion, be submitted for their primary action.

With great respect, your obdt. servt.,

J. BUTTERFIELD, *Comr.*

To Hon. THOS. EWING,
Secretary of the Interior.

Letter Secretary of Interior to Commr. G. L. O. (Sup'me C. R., p. 186.)

DEPARTMENT OF THE INTERIOR,
Washington, October 12th, 1850.

SIR: On looking into the claim of Henry M. Rector, to a patent for the Langlois New Madrid location of the hot eprings in Arkansas, I find that other persons are claiming adversely by pre-emption under the act of 12th of April, 1814, and 29th May, 1830, whose claims have not been finally adjudicated by the district land officers.

These claims could not now, therefore, receive the favorable con-
449 sideration of the Department, and to reject them in their present condition, would deprive the parties of a standing in court to try the question of law involved in the case, should they ultimately desire to appeal from the decision of the Department thereon. The papers are therefore returned, in order that the pre-emption claims in question may be remand' to the district land-officers, with such detailed instructions as you may deem necessary and proper, for their primary adjudication of the facts on which the right of pre-emption depends, and which facts the law refers to their determination exclusively, and without appeal. Their adjudication should be made on each claim respectively, and without reference to the others, or to any questions as to the liability of the land to the one or the other claim, so that all questions of law may be left for the determination of the Department, and ample notice of the time and place for the examination should be given, so

450 that all persons in any manner interested may have an opportunity of defending or asserting their rights.

I am, sir, very respectfully, your obt. servant,

ALEX. H. H. STUART, *Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

Letter—Acting Commr. G. L. O., to register & receiver, Washington, Ark., (Sup. C. R., printed page 186.)

GENERAL LAND-OFFICE,
October 23rd, 1850.

GENTLEMEN: The tract of land upon which is situated the hot springs, in the State of Arkansas, has been heretofore located by the New Madrid claim of Francis Langlois, and claimed adversely by the heirs of John Perc full, and by William Davis and Mary Davis, each under the pre-emption law of 12th of April, 1814; and by Lydia Belding under the pre-emption law of 29th May, 1830. This office has heretofore held that this land was not legally liable to location by said New Madrid claim or entry under the pre-emption law of 1814, because the Indian title to the same was not extinguished until some years
451 after the passage of the law relating to the first-mentioned class of claims, and the said law of 1814; and that it was protected from the operation of the act of the 14th of July, 1832, supplementary to the act of the 29th of May, 1830, by the 3rd sect. of the act of the 20th of April, 1832, which reserved the said land "for the future disposal of the United States," and directed "that it should not be entered, located, or appropriated for any other purpose whatever." The late Attorney-General having given an opinion that the New Madrid location was a legal and valid one, and, under that opinion, a patent having been applied for by H. M. Rector, esq., it was opposed by the agent of Mrs. Belding and the heirs of Percifull, and upon a reference of the whole subject to the Secretary of the Interior, he has directed that the pre-emption claims in question be remanded to the district land-officers in order that the respective parties may be fully heard upon the facts,
452 and that an adjudication upon such facts may be made by you in each case.

The Secretary directs that each claim will be examined and adjudicated separate, and without reference to the others, or to any questions as to the liability of the land to the one or the other claim, so that all questions of law may be left to the determination of the Department. You are therefore instructed to give notice to all parties interested, of a time and place when and where you will be prepared to hear the testimony, which the respective claimants by pre-emption may be desirous of having examined, either in support of their own claims or adverse to the claims of either of the others, and also the testimony of such witnesses as Mr. Rector may desire to introduce adverse to the right of either of the pre-emption claimants. This examination of witnesses should be before you, so that you may be enabled, by observation
453 as well as other means, to judge of the credibility of the witnesses, and such examination will be full and minute, as to the cultivation, improvements, and possession of the respective claimants, as to the nature and extent of such cultivation and improvements, and as to the species of possession, whether by personal residence or otherwise. A copy of all the testimony heretofore filed by the respective parties, of which this office has any knowledge is herewith transmitted, in order that you may have the same before you when the final adjudication is

made, as also to guide you to a critical and thorough examination of each of the cases. This testimony is to be taken by you for what it is worth, subject to objections by any opposing claimant, where it is of an ex-parte character as to be invalidated either by the production of counter-testimony of superior weight, or by impeachment of the credability of the witness. Each witness will be sworn by the register or re-
454 ceiver before his examination, and the testimony given, either upon questions propounded by either of those officers or by the parties or their agents, will be reduced to writing, signed by the witness, and duly certified by the officer administering the oath, and when the whole of the cases are closed, the testimony relating to each, separately, will be forwarded to this Office, with your joint opinion thereon; and in giving that opinion you will state that it is based upon the sufficiency or insufficiency, as they case may be, of the evidence as to the performance of the things prescribed by law in reference to the settlement, cultivation, and possession of the party, and to the other acts required of said claimants and irrespective of the merits of any other conflicting claim, or without reference to the question whether said land is or is not subject to the particular law upon which the particular claim is founded.

It is not expected that the clerical duty of writing out the testi-
455 mony shall be performed by you. That must be done at the expense of the party who introduces the witness, or in any other way or manner that can be agreed upon among the parties themselves. The law requires them to furnish the proof, and never designed that for the fee of fifty cents each, the land officers should be put to the labor of writing out such proof, even in an ordinary case of pre-emption, much less in such cases as the present, where so much writing will, it is presumed, be required.

Respectfully, your obt. servt.,

JOHN WILSON,
Acting Commr. ad interim.

REGISTER AND RECEIVER,
Washington, Arkan's.

Belding's pre-emption proof taken in 1851, *under instructions of Commissioner's letter of* 23 *October*, 1850.—(*Supreme C. R., printed page* 92 *to* 112 *inclusive.*)

456 UNITED STATES OF AMERICA,
Land-Office of the U. S. for the
Red River District at Washington, Arkansas, ss:

Depositions of witnesses sworn to and subscribed before William H. Etter, register, and Bernard F. Hempstead, receiver of the land-office of the United States for the Red River district, at Washington, Arkansas, in relation to the claim of the heirs of and legal representatives of Ludovicus Belding, deceased, in right of said Ludovicus, deceased, to a pre-emption right upon or to the southwest quarter of section thirty-three, (33,) in township two, (2,) of range nineteen (19) west, commonly known as the Hot Spring tract, under the act of Congress passed and approved May 29, 1830, and the act supplemental thereto, taken at the office of said register, in Washington aforesaid, in pursuance to a letter of instruction addressed to
457 said register and receiver, signed by John Wilson, Acting Co'mr ad interim, and dated General Land-Office, October 23, 1850.

Mrs. LYDIA BELDING, a witness introduced on the part of said Ludovicus Belding, deceased, known to be of lawful age, being on the 22nd

day of January, A. D. 1851, at the place aforesaid, produced, and being first duly sworn to testify the truth, the whole truth, and nothing but the truth in regard to the said pre-emption claim, did, then and there, on her oath aforesaid, depose as follows, to wit:

Question by the counsel for Belding's heirs:

1st. Were you acquainted with Ludovicus Belding in his lifetime? If so, state how long, and what opportunities you had of being acquainted with him.

Answer. I was acquainted with him eighteen or nineteen years. He was my husband.

458 When were you married to him, and did you live with him as his wife until his death?

Answer. I was married to him in 1815, and lived with him as such until his death.

Question. When did he move to Arkansas Territory; and if he did move to that Territory, where did he settle with his family?

Answer. He moved to Arkansas Territory in February, 1828, with his family and settled at Hot Springs.

Quest. At what time did he settle at the Hot Springs, and did you and the rest of his family settle with him at that place at that time?

Answer. He settled at the Hot Springs in February, 1828; myself and the rest of his family settled there with him at that time.

Quest. Was any person settled there at the time you and your husband settled at the Hot Springs?

Answer. None.

459 Quest. What improvements were there at the Hot Springs, or in what is called the Hot Spring Valley, at the time your husband settled there?

Answer. There were some old cabins there, probably five, six, or seven. I cannot state exactly the number.

Quest. Was any person living in any of the cabins, and in what condition were they—were they out of order?

Answer. There was no person living in the cabins, and they were out of order.

Quest. What kind of cabins were those you speak of being there; were they made of hewn or round logs; were they floored, and what kind of chimneys were affixed to them?

Ans. They were made of round logs, probably one or two had loose floors, perhaps one of plank and one of puncheon. There was one stick chimney which had fallen down; do not recollect w'ether there was any other chimney to any of the cabins.

460 Quest. How far was it from the hot springs to the nearest settlement at the time your husband made his settlement?

Ans. About a mile or a mile and a half.

Ques. Did your husband take up his permanent residence at the Hot Springs, or did he merely stop there as a visitor?

Ans. He took up his permanent residence there.

Quest. What kind of business did he engage in during the time he lived at the springs?

Ans. Merchandizing.

Quest. How long did he keep up a mercantile establishment at that place? What time did he establish and when did he discontinue it?

Ans. He put up the goods in February, 1828, and continued to keep goods there until November, 1830.

Quest. In what part of the Hot Springs Valley was the storehouse

situated in which kept his goods for the time you speak of his having kept a store there?

461 Ans. A part of the time he kept in the upper part of the valley not more than about thirty yards from the hot springs, and a part of the time about midway the valley, and about 90 or 100 yards from the hot springs.

Quest. Did said L. Belding cultivate any land at the hot springs in the year 1828 or 1829? If so, state all you know in relation to such cultivation in either of those years.

Ans. He cultivated land there in both of those years; he cultivated a garden patch, and raised vegetables such as corn, peas, beans, and others of the like; the lands so cultivated was inclosed with a fence; he, Mr. Belding, had the fence made and the ground cultivated under his direction, and by persons employed by him, and think that some members of his family assisted in the said cultivation; the land cultivated by him was vacant, and not inclosed when Mr. Belding went there.

462 Quest. In what part of what is called the Hot Springs Valley is the land you speak of having been cultivated by said Belding in the year 1828 and 1829 situated; how from the upper or main hot spring?

Ans. Not more than 30 or 40 yards from the upper or main spring, I think.

Quest. Did said Belding cultivate any part of the said valley during either of the years 1828 and 1829, other than that you have before mentioned? if so, state in what part of said valley such other land so cultivated was situated.

Ans. He had a small inclosure in cultivation about one hundred yards below the garden before spoken of, and near the place now occupied or owned by Mr. Rector, and occupied as a billiard-room; it was cultivated in 1828 and 1829 in different kinds of vegetables usually raised in a garden.

Ques. What houses did said Belding build, and what improvements did he make, if any, in said valley? and state at what time and

463 during what years such buildings or improvements were made.

Ans. He built as many as six or seven new cabins, and repaired the old ones during the time he remained there. The cabins were built of logs, either hewn or scal'ped; had floors in them, and chimney to a part of them; the cabins were mad' tight by chinking, boarding, or some other way not particularly recollected. The improvements and repairs were made in 1828, 1829, and 1830.

Memorandum by the register and receiver.

Before any witnesses were examined in this cause, the heirs and legal representatives of John Percifull filed their protest against the claim of Belding's heirs; and, also, at the same time, Henry M. Rector objected, and the protest filed by him in the case of the legal representatives of John Percifull, deceased, was, by consent, to be considered as

464 filed in this case also.

Whereupon this investigation adjourned until to-morrow morning, 9 o'clock.

B. F. HEMPSTEAD, *Rec'r.*
W. H. ETTER, *R'g'r.*

WEDNESDAY MORNING, *January* 23, 1851.

Met pursuant to adjournment, and proceeded with the examination of Lydia Belding as follows, to wit:

Quest. In what of the Hot Springs Valley was the house situated in which said Belding formerly resided? Describe the place by the objects *near* standing there.

Ans. The house where the family resided was in the upper part of the valley, near where Mr. Hale's large house is now.

Quest. Were the cabins, house, and improvements you have spoken of as having been made and repaired by said Belding used and controlled by him?

Ans. They were.

465 Quest. Were there any cabins or houses in said valley known as the "Millard" cabins? If so, state *state* where they situated.

Ans. There was such cabins, situated above the place called Texas, and above where the stage-road leading from the Hot Springs to Little Rock crosses Hot Spring Creek. I mean by above to say up the creek.

Quest. Did said Belding ever purchase or otherwise control *of* the Millard cabins? If so, state when.

Ans. He purchased them on the 4th of March, 1830.

Quest. State whether or not said Belding kept a tavern at the Hot Springs, and used the houses and improvements you have mentioned as having been made by him for the accommodation of his family, and such persons as visited the springs and board' with him.

Ans. He did so.

466 Quest. Did any other person except said Belding keep what is called a public tavern or inn at said springs during the years 1828 or 1829, or either of those years?

Ans. Mr. Millard kept boarders in the fore part of the year 1828; no other person except him; and in 1829 a man by the name of Rogers took in boarders at the same house that Millard occupied in 1828. The house was known as the Millard cabin or house. The Millard cabin consisted of a double log-cabin, a kitchen, and smoke-house. No other houses or cabins attached to the Millard cabins that I recollect of; don't recollect that any other than the persons named kept a boarding-house in either of those years.

Quest. Did said Belding rent the Millard cabins to any person during the year 1830? If so, to whom, and at what time?

Ans. He rented them to Col. Notribe, and I think in the month of June, 1830.

Quest. When did said Belding remove his family from the

467 springs, and to what place did he move them?

Ans. His family removed from the Hot Springs about the last of April, 1830, to the place where I now live, which is about six miles from the springs, on the stage-road to Little Rock.

Quest. Where was the house situated in which Belding kept his store in Jan'y, and from thence to the time his family removed?

Ans. As near as I can now recollect about half-way down the valley and about half way from the Millard cabins to the upper cabins. The store was there at the time the family removed.

Quest. Did said Belding leave any of his household goods at the springs at the time he removed his family? If so, state when the furniture so left was removed?

Ans. He left some bedding, and probably some other furniture. The

bedding, etc., was removed some two or three months after the family.

468 Quest. Did said Belding rent or otherwise dispose of any of the cabins built or repaired and used by him before he removed his family? If so, which of them, and to whom did he rent them?

Ans. He rented the buildings in the upper part of the valley, above his storehouse, to Asa Thompson, before his family removed. He rented to Thompson in February, 1830. The house the family lived in was reserved, which the family occupied until they left, and the cabin which Mr. Bassett owned was reserved entirely in the lease of Thompson.

Question. Was the storehouse you has referred to in your last response the house in which Belding kept his store at the time his family removed, and was that *that* storehouse included, or was it excluded from the said lease to Thompson?

Ans. I believe so, and was excluded in the lease to Thompson.

469 Quest. Was or was not said Belding frequently in the habit of going to the Hot Springs in the spring and summer of 1830, after his family removed?

Ans. He was; almost every day.

Quest. When did said Belding die? and if he left any children and heirs him surviving, name them, and state where they reside, and whether any of them are now minors.

Ans. He died the 9th day of October, 1833. He left four children, namely, Moriah, wife of William H. Gains, Albert Belding, Henry Belding, and George Belding. Moriah Gains and Albert Belding reside in Chicott County, Arkansas; Henry Belding and George Belding reside with me in Hot Springs County, Arkansas; Henry and George are both minors.

Quest. Upon what quarter-section of land are the improvements which you say were made by said L. Belding in the Hot Spring Valley?

Ans. The cabins are on the same quarter-section that the hot
470 springs are on, but part of the cultivation was supposed to be on another quarter, that is to say, a part of the upper garden; the lower garden was on the same quarter-section that the springs are on; believe the springs to be on the southwest quarter-section thirty-three, and that a part of the upper garden was on the northwest quarter of the same section.

Quest. How far is it from the hot springs to the place where the stage-road leading from the springs to Little Rock crosses the Hot Springs Creek?

Ans. Can't state the distance, not having noticed particularly.

Quest. Examine the papers now presented to you, endorsed, "This is the paper marked A, and referred to in the deposition of Lydia Belding, signed reg'r and rec'r, and state whether you executed and delivered the same before you were sworn to give your present deposition.

471 Ans. I did execute and deliver the same before I was sworn to give my present deposition.

Quest. Are the children named the only heirs of Ludovicus Belding?

Ans. They are.

Further this deponent sayeth not.

(Signed) LYDIA BELDING.

Sworn and subscribed before me.

W. H. ETTER, *Reg'r.*

Henry M. Rector, the New Madrid claimant, on the foregoing evidence of Lydia Belding, and her relinquishment, release, and transfer of her interest in and to her said pre-emption claim to the land now in controversy to other persons, objects to any further proceedings upon the claim, she having, as he asserts, abandoned it absolutely; and moves that the same be referred back to the Commissioner of the General Land-Office, without any further action thereon, except to report the fact of relinquishment
472 and transfer.

And the heirs and legal representatives of John Percifull, dec'd, make the same objection and with the same order.

Whereupon the register decides that they proceed with the testimony and leave the settlement of the question to the proper authorities at Washington City.

The receiver is in favor of sustaining the objection, upon the grounds that he believed that the release of Lydia Belding leaves no case for the land-officers to act upon, according to the instructions and papers sent them, but being overruled by the register they proceed with the examination of witnesses.

Whereupon Henry M. Rector, the New Madrid claimant, and the legal heirs and representatives of John Percifull, dec'd, each object on account of the above division of opinion between the register and
473 receiver to their progressing further in the premises; which objection was overruled.

David Percifull, for himself and the legal representatives of John Percifull, de'd, move the register and receiver to exclude the deposition of Lydia Belding as evidence in the case.

Which motion was overruled.

JOHN S. C. CALLOWAY, a witness introduced on the part of the heirs of said Ludovicus Belding, decea'd, known to be of lawful age, being on the 23rd day of January, A. D. 1851, at the place aforesaid, produced, and being first duly sworn to certify the truth, the whole truth, and nothing but the truth, in regard to the said pre-emption claim, did, then and there on his oath aforesaid, depose as follows, to wit:

Quest. When were you at the Hot Springs, in Arkansas?

474 Ans. In the latter part of May, or early part of June, in 1823.

Quest. What was the appearance of the place at that time, and what improvements were there?

Ans. There were some 4, 5, or 6 cabins; no person settled there. There were some several persons camped, attending the springs. The cabins were built of small round poles; don't think there were any floors in them, but was not in them all. I stayed there about three weeks or more; no rails or fencing there. I attended there on account of having the white-swelling, for the benefit of the water.

Quest. When were you next there?

Ans'r. About the last of July or first part of August, 1828.

Quest. Who was living there at that time?

Ans'r. Mr. L. Belding, the husband of Mrs. Lydia Belding, who is present; who always signed his name L. Belding.

475 Quest. Did said Belding have possession of the cabins and improvements at the Hot Springs, and in what business was he engaged at the time?

Ans'r. He had possession, and was selling goods.

Quest. Was his family residing with him at the time and at that place?

Ans'r. Yes.

Quest. In what part of what is called the Hot Springs Valley was the house or houses situated in which said Belding's family was residing?

Ans'r. In the upper part, nearly opposite the hot springs, and on the left-hand side of the creek going up the valley.

Quest. In what part of Hot Springs County, and how far from the hot springs did you reside in 1828, 1829, and 1830?

Ans'r. I lived in Clark County in 1828, about 35 miles from the hot springs; resided in Hot Springs County from latter part of 1829
476 to 1834; considered myself a permanent resident of Hot Springs County the commencement of 1830 until the death of my father, in Nov., 1834. Hot Springs County formed a part of Clark until the fall or winter of 1829, when Hot Springs was stricken off. My resi-de'ce in Hot Spring County was about from 22 to 25 miles from the Hot Spring'.

Quest. Were you frequently at the Hot Springs in 1829 and 1830?

Ans'r. I was there 3 or 4 times in each of those years.

Quest. Were you ever sheriff of Hot Springs County? If so, state how long.

Ans'r. I was sheriff from the latter part of 1830 or the early part of 1831 until August or Sept., 1831.

Quest. Who was settled and resided at the Hot Springs in 1829?

Ans. Mr. Belding; the same man before referred to.

Ques. Was his family residing with him at that place during that year?

477 Ans'r. They were; and resided at the same place on which they resided 1828, and Mr. Belding was then engaged in selling goods or merchandizing.

Quest. Was Lydia Belding living with said L. Belding as his wife during the time you were acquainted with him?

Ans'r. She was.

Quest. Do you recollect whether the said L. Belding cultivate' any land at the Hot Springs, as a garden or otherwise, during the year 1829? If so, state in whate part of the valley the land so cultivate' was situate'.

Ans'r. He had a truck-patch or garden in cultivation, in 1829, at the upper end of the valley, about a half acre or three-quarters of an acre; he raised corn, beans, potatoes. I think there was another little patch lower down the valley, but cannot speak positively as to the extent, or whether cultivated or not.

478 Quest. How long did said Belding keep a store at the Hot Springs?

Ans. He kept there in 1828 and in 1829, and in 1830. Mr. Echols done business for him there in 1830, and once or twice saw him and Mr. Belding both in the store.

Ques. In what part of the Hot Springs Valley was the store so kept by said Belding situated?

Ans'r. In 1828 and 1829 the store was kept in the upper part of the valley, near where the two principal taverns now stand, and in 1830 it was kept about midway the valley, and about half way between the "Millard cabins" and the Belding cabins.

Quest. Did said Belding build any house or make any improvements at the Hot Springs during the years 1828 or 1829? If so, state what improvements or houses he made.

Ans. From 1828 to 1829 or '30, there were some 6 or 8 cabins built—were built of log and sc'lped down, and were made tight and com-
479 fortable. Mr. Belding had the control of them; some of the old

cabins were newly covered; don't know who done it, but Belding had the control of them also.

Quest. Did said Belding keep a tavern at the Hot Springs during the year' 1828 and 1829? If so, were the cabins you speak of being controlled by him occupied by his family and guests.

Ans'r. They were in 1829, and cannot speak positively as regards 1828, but believe they were then.

Quest. Who was the first person who permanently settled with his family at the Hot Springs, and remained there the year round, during your acquaintance with said springs?

Ans'r. Mr. Belding.

Quest. Did said Belding keep a store at the Hot Springs during the spring and summer of 1830?

Ans'r. He did.

Ques. Did he manage and control that store; and in whose
480 name was the business conducted?

Ans'r. He did; and the business was conducted in his own name.

Quest. How long did said L. Belding keep a store in said Hot Spring Valley?

Ans'r. Until nearly Christmas, in the year 1830. I am positive that he kept up there until the fall of that year.

Quest. Did you trade in said store during the spring and summer of the year 1830?

Ans'r. I did. I bought a pair of shoes, and some other things.

Cross-examined by the counsel for Henry M. Rector, the claimant of the New Madrid claim:

Quest. Was there any other person residing at the Hot Springs when you were there in 1828, other than Mr. Belding?

Ans'r. None that I knew of.

Quest. Was there any other in 1829?

481 Ans'r. To the best of my recollection, Alexander L. Rodgers lived there a part of the year, and Asa Thompson was there with his family during the latter part of the year; none other that I knew of.

Quest. Did you see any evidence of cultivation when you were there in 1823?

Ans'r. I saw none; neither cultivation or rails.

Quest. Did you think there was three-quarters of an acre in cultivation in the garden?

Ans'r. I should think very near that.

Quest. How far is it from where the old road crossed the Hot Springs Creek in 1828 or '30, to the garden?

Ans'r. I would suppose about 30 or 40 yards to the corner of the garden, from the foot-log across the creek.

Quest. What course did the garden-fence run from the cold-water spring?

Ans'r. I cannot say whether it run east, west, north, or south.

Quest. What was the size and dimensions of the other patch
482 spoken of, lower down the valley?

Ans'r. I cannot tell anything about it,

Quest. What time in 1829 did you go there?

Ans'r. I went there in March or April, in June, and once or twice in the fall or winter; did not stay all night; went there *of a* morning and returned in the evening. Mr. Turner's, where I stayed, was 12 or 13 miles. Sometimes stopped at Mr. Percifull' and at Mr. Davis'.

Quest. Did you see the corn growing in the garden in June, when you were there?

Ans'r. Yes; I saw it once or twice when I was there.

Quest. How large was the corn in June, when you were there?

Ans'r. I think it was pretty near as high as my head; saw no corn in the lower patch, if there was any patch there; can't say that there was any patch, or whether there was any inclosure.

483 Quest. Had you or had you not opportunities of seeing corn had there been any there?

Ans'r. I think I had.

Quest. What would it cost to clear and fence the garden, or upper patch spoken of?

Ans'r. I have but little idea; but would suppose about 10 or 15 dollars; might be more or less.

Quest. What amount of goods did Mr. Belding have at the springs?

Ans'r. In 1829 and 1830, he had a right pretty little stock of goods. I would suppose between 500 and $1,000 worth each year.

Quest. How far was the garden from the Millard cabins?

Ans'r. I think upwards of 250 yards.

Quest. Was there any cultivation about the Millard house, in 1829?

Ans'r. None that I saw.

Quest. Do you know when Mr. Belding removed from the springs?

Ans'r. I think it was in or about April, 1830.

484 Quest. Were you at Mr. Belding's after he removed from the springs?

Ans'r. I passed there several times, but was not in his house until late in 1830, or early 1831.

Quest. Did Mrs. Lydia Belding ever live at the springs after she moved away from them?

Ans'r. Not that I know of; she never lived there unless she did after I moved away from them, which was in 1834.

Quest. Did she live with her husband on the Gulpher in 1830, 1831, and 1832, and until he died in 1833?

Ans'r. To the best of my knowledge she did.

Quest. Did Mr. Belding raise a crop on the Gulpha in 1829?

Ans'r. Not that I know of; there was a crop raised there, but don't know that Belding had any interest in it.

Quest. What kind of a place did Mr. Belding live at on the

485 Gulpha; what was the extent of the farm?

Ans'r. A pretty smart little farm. I would suppose 15 or 25 acres; may be more.

Quest. Did Mr. or Mrs. Belding cultivate the garden at the springs 1829?

Ans'r. I don't know which or whether either; only know it as Belding's garden.

Cross-questioned by the counsel for the heirs and legal representatives of John Percifull, dec'd.

Quest. In what house did Mr. Belding keep his goods in 1830?

Ans'r. He kept in some house up the valley, near the bank of the creek, about 100 yards above the Millard houses; the same houses that Asa Thompson and his family were in in 1829.

Quest. When was the first time you ever saw the houses spoken of?

Ans'r. I think in 1828; I was there in 1823, but don't recollect

486 seeing such houses there at that time. I think that when I saw them in 1828, one of them was nearly covered, and probably both; one of them was a tolerable old looking cabin.

Quest. Did you ever know of Echels selling goods at the Hot Springs on his own account?

Ans. I never did; he sold goods there for Belding in 1830.

Did you ever know of Mr. Belding holding any houses in the Hot Springs Valley after he moved to the Gulpha?

Ans. Never knew of any.

Quest. Did Mr. Belding ever live at the Hot Springs after he moved to the Gulpha?

Ans. He never did to my knowledge.

Quest. Had Belding any cultivation in the Hot Springs Valley on the 24th May, 1830?

Ans. Not that I know of; Mr. Thompson had possession of the springs at that time.

Quest. Can you tell where the cabin called Davis' cabin was situated in the Hot Springs Valley?

487 Ans. I cannot. I never knew any such cabin.

Quest. How many houses were there below where Mr. Belding's goods were in 1830?

Ans. The Millard house, and a little shanty, a smoke house, and the warehouse; which said warehouse, I understand, was built by some person by the name of Ward, situated in the lower end of the valley, the old crossing of the Little Rock road.

The examination of this witness not being concluded, the examintion is adjourned until to-morrow morning, 9 o'clock.

(Signed) B. F. HEMPSTEAD, *Rec'r.*
W. H. ETTER, *Register.*

Re-examined by the counsel for Belding heirs:

Quest. When you say that Asa Thompson had possession of the springs in 1830, do you mean that he had possession of all the houses?

488 Ans. I mean to say that Belding and Eckels, who was doing business for him, Belding—had the possession of the house the goods were in, and Thompson those above.

Quest. By what right did Thompson hold possession?

Ans. Thompson told me that he rented or leased them of Belding.

Quest. About what time did Thompson's possession commence?

Ans. I think he was there and took possession in February, 1830.

Quest. When you say that Belding moved in April, 1830, do you mean that he moved his store, or merely his family?

Ans. He moved his family, but not his store.

(Signed) JOHN S. T. CALOWAY.

Sworn to and subscribed before me, Jan'y 24, 1851.

B. F. HEMPSTEAD, *Rec'r.*

489 And, at the same time and place, DAVID BASSETT, produced and sworn, deposes and states as follows:

Quest. Was you ever acquainted with a man named Ludovicus Belding? If so, state how long you knew him; and, if he ever moved to Arkansas Territory and settled there with his family, state when and where he settled.

Ans. I knew Ludovicus Belding some 17 or 18 years. He moved with his family to the Hot Springs Valley in the then Territory of Arkansas. I was with him myself when he moved and settled at that place.

Quest. What was the appearance of the place when Belding's family settled there; what improvements were there at that time; and was any person then living there; and what was the condition of the cabins at that time? Describe them fully.

Ans. It looked like an evacuated place; there was no person living there. Think there were some six or eight cabins in the valley;
490 the most of them were very indifferent, old cabins; they were built of round poles; there was a double house built of pealed poles; was very much out of repair, and the roof of all the cabins were out of repair; don't think there was a chimney standing in the place; no appearance of any cultivation previous, that I recollect of; none of the cabins were occupied at the time Belding went there. My father and mother went there with Belding, and cultivated—a part of his family—as they had before.

Quest. How long did Belding live with his family, at the Hot Springs?

Ans. I went there with him in Feb'y, 1828. I left there in the fall of that year. I returned the next summer, and he was still living there with his family. I think, as well as I can recollect, it was in April, 1830, that he moved his family away from the springs.

Quest. What improvement did Belding make at the Hot
491 Springs, either by building new cabins or repairing old ones?

Ans. He repaired the roof of the old cabins, and, in 1829, there were 4 or 5 new cabins built of hewn logs. They were very snug little cabins, with doors, floors, and some of them with chimneys. I assisted Belding in repairing the cabins, and helped to saw some plank in 1828.

Quest. Did Belding use and control the cabins which you say were built and repaired during the time he lived at the springs?

Ans. Yes; he did.

Quest. In what business was Belding engaged during the time he lived at the springs?

Ans. He sold goods there, and kept a house of entertainment.

Quest. How long did Belding keep a store in the Hot Spring Valley?

Ans. He commenced in Feb'y, 1828, when he first there, and still had goods there until the latter part of the summer of the year
492 1830. He had a clerk there selling goods after he moved his family from the springs.

Quest. Did Belding keep a store there in his own name after his family moved away, and during the spring and summer of 1830?

Ans. Yes. He had goods there during that time, and had a man by the name of Eckles clerking for him; saw him, Belding, there frequently, during that time. He was generally about the store after his family moved away.

Quest. Did Belding cultivate any land in the Hot Springs Valley during the year 1829? If so, state where the land cultivated was situated?

Ans. When I was there, in 1828, I helped to fence in a garden in the upper end of the valley for Belding. I helped to cultivate it in 1828, and in 1829 I saw the same ground in cultivation, and believe it was still under the control of Belding. There was growing in said garden, in 1829, common garden vegetables, such as potatoes, corn, beans,
493 and such like. The work that I done there in 1828 I done for Belding.

Quest. Do you the lines about the hot springs?

Ans. I have been at the section corner, and at what I suppose and understood to be a half-mile corner, at or near the head of the Hot Springs Valley. I have been at the section-corner, at the southwest corner of the same section the hot springs are in, and would suppose the half-mile corner near the head of the valley to be just about a half mile from said section-corner. I would suppose, from observation without a compass, that the garden spoken of would be partly on the south-

west quarter and partly on the northwest quarter of said section; would suppose the most of the garden would be on the northwest quarter; can see the garden from said half-mile corner. Belding had another very small strip in cultivation down the valley near the creek, and above the little drain that runs down between Mr. Hale's and Mr. Rector's tavern-houses, and near the row of buildings above Mr. Hale's.

494 I would suppose it to be on the southwest quarter of the section spoken of. The said little patch was cultivated in some little garden-stuff in 1829. The Hot Springs Valley is narrow and gravelly.

Quest. Was said L. Belding a married man at or near the age of 21 years, and the head of a family at the time he lived in the Hot Spring Valley?

Ans. He was.

Quest. Was Lydia Belding the wife of the said L. Belding, and did she live with him as such until his death?

Ans. She was and did.

Quest. How long did your father and mother live with said Belding, as part of his family, in the valley, and where did they remove when they left there?

Ans. When I went away, in 1828, they were living with Belding, and when I returned, in the summer of 1829, they were living on a farm six miles from Hot Springs.

495 Quest. Where have you lived ever since you returned in 1829?

Ans. About six miles from the Hot Springs.

Quest. Where did Belding's family move to and settle when they left the springs in April, 1830?

Ans. They built a house across the road from my father's house, six miles from the Hot Springs, on the Little Rock road; the place was my father's; at least he had possession of it and controlled it; he lived there until he died.

Quest. Who cultivated and controlled the cleared land at the place where Belding formerly settled?

Ans. I worked the place, and cultivated it, and considered everything belonged to my father.

Quest. What kind of business did Belding follow after he left the springs, farming or what?

Ans. Before he died he was engaged furnishing Indians, and had a store in this place.

Quest. Did Belding cultivate any land after his family removed from the springs, where he settled?

496 Ans. He purchased a place, either in 1831 or 1832, called the Bale place, and cultivated there, I think, in 1831 and 1832.

Quest. Has the county-seat of Hot Springs County been fixed at Hot Spring Valley at any time since you have known the place, and have the persons residing in that vacinity been in the habit of resorting there to do their trading?

Ans. The first county-site, after the establishment of Hot Springs County was at that place, and remained there until it was removed to Rockport, about five or six years ago; the persons residing in the vacinity have been in the habit of resorting the Hot Springs to do their trading ever since I lived in that county.

Quest. When did Ludovicus Belding die, and did he leave any widow or children him surviving? If so, name them?

Ans. He di*d*e in October, 1833; he left Lydia Belding, his widow, and Moriah Belding, now the wife of William H. Gains, Albert Belding, Henry Belding, and George Belding. Moriah Gains is about 28 or

497 30 years of age, the oldest; and George Belding, about 18 years of age, the youngest.

Quest. Was the store you have spoken of as having been kept by Belding, at the Hot Springs, the principal store in that vacinity?

Ans. It was, during the time he kept there. Thompson had a few goods there in the spring of 1830, and a man by the name of Gawhard a few goods there in 1828, about the 4th of July.

Quest. What was the relation existing between your father's family and Belding's family?

Ans. My father was Mr'. Belding's father, and my mother was Mr'. Belding's mother.

Quest. Was L. Belding a business man, and a particular man in his business transactions?

Ans. He was.

Quest. Is Jonathan Bessett dead?

Ans. He is; he died, I think, about the year 1845.

Cross examined by the counsel for Henry M. Rector, the New Madrid claimant:

498 Quest. Where did Mr. Belding come from to this country?

Ans. He came from Kentucky, though he lived there but a short time; he came from Ohio to Kentucky, from Indiana to Ohio and from Ohio to Indiana. The first I knew of him was in Ohio; called himself a native of Massachusetts.

Quest. Where did he come to in Arkansas, and where did he stop? What was his business?

Ans. He came to Little Rock and stopped there a short time, in 1828, and then to the Hot Springs, in Feb'ry, 1828; followed no business in Little Rock; he had some few goods with him.

Quest. What business was he employed in from the time you knew him before he came to Arkansas?

Ans. He followed boating and trading in goods, and followed steamboating some.

Quest. How did he come to the Hot Springs? By what authority did he take possession of the Hot Springs?

Ans. After he came to Little Rock and stopped a short time,
499 the understanding was that Mr. Percifull *was* the proprietor of the Hot Springs; he came on there to Mr. Percifull. He went to the house, and I stayed with the wagons; don't know how he got the springs, whether lease or how, but am of the opinion *was* that he got the springs by some verbal agreement or contract with Mr. Percifull, and that was the general impression in the neighborhood. If I ever heard Percifull or Belding talk about it, I have no recollection of it.

Quest. Did you ever hear Percifull speak of his right to the springs?

Ans. It was the general understanding in the neighbor that Percifull claimed the springs, but never heard him, Percifull, set up any claim that I now recollect of.

Quest. How far did you live from Mr. Percifull, and how long did you know him?

Ans. The most of the time I lived in about a mile of him; I knew from 1828 until about 1835, about which time he died.

500 Quest. Did you ever hear Belding say that he set up any right of pre-emption to the Hot Springs?

Ans. All I ever heard him say was that if Percifull would join him they could set up a better claim to the Hot Springs than anybody else, but that Percifull was so fractious that he would say nothing to him

about it. I don't think that Belding ever attempted, in his life-time, to prove up a pre-emption to the springs; never heard of his attempting to make any proof.

Quest. What was the size of the upper garden spoken of at the springs.

Ans. I would suppose about a half acre.

Quest. Had the garden you fenced in for Mr. Belding ever been cultivated before that time?

Ans. The ground was cleared off and appeared as though it might have been cultivated before: there was no inclosure around it; there might have been a few pieces of old rails, but don't recollect that there was. If there ever was an inclosure it might have been burnt up. It
501 was worth some, I suppose, 7 or 8 dollars to put the patch in order for cultivation.

Quest. Who has possession of that piece of ground now?

Ans. I think it is where Mr. Henry M. Rector's house-lot now is.

Do you know how Mr. Henry M. Rector came in possession of that place?

Ans. My understanding was that he had bought Mr. Mitchell out.

Quest. How did Mr. Mitchell get possession?

Ans. I always understood that he bought Miles Wood out.

Quest. How did Mr. Wood get possession?

Ans. I understood that Mr. Woods and Mr. Hale had bought Mr. Percifull out, and that the upper-half fell to Mr. Woods.

Quest. Describe the strip or small garden on the bank of the creek.

Ans. I would suppose, say, 18 or 20 feet wide, and about 50 feet long. Saw growing there, in 1829, onions, vines, and vegetables
502 of different kinds. Mr. Belding employed Grant and Watkins to build some cabins, say 4 or 5, in 1829, as I think, and three of which are now standing; they were built while Belding lived at the springs. The house' now standing, that were built while Mr. Belding lived there, *and* now in the possession of Mr. Rector. My understanding was that the houses spoken of were a part of the premises bought by Messrs. Hale and Woods of Mr. Percifull.

Quest. When did Mr. Belding move from the springs?

Ans. In the spring of 1830.

Quest. Did Mr. Belding have cultivation on the Gulpha in 1829?

Ans. I left there in the fall of 1828 and came back in the summer of 1829, and don't know that Mr. Belding had any cultivation there that year at that place.

Quest. How long did Mr. Belding live on the Gulpha before he came out to furnish Indians?

Ans. I think, as well as I can recollect, him and Mr. Byrd commenced the business of furnishing Indians some time in the year 1831, and continued until a short time befor' his death. Don't
503 think Mr. Belding ever lived at the springs after they moved to the Gulpha; but Mr. Belding was afterwards in the valley, and kept boarders at the "Ruyan House;" don't recollect in what year. Suppose the Ruyan House not be on the same qr. sect. that the Hot Springs are *not.*

Quest. Did Mr. Belding raise a crop on the Gulpha in 1830?

Ans. I don't think he did.

Quest. What amount of goods had Mr. Belding at the springs in 1830?

Ans. I do not recollect, The house the goods were kept in, in 1830,

was a house, I think, that Mr. Belding had recovered, and was situated some little distance below where Mr. Hale's dining-room now is.

Quest. Who had the management of the store 1830?

Ans. Mr. Ecles and Mr. Miles done business; but don't recollect exactly whether Mr. Ecles or Mr. Miles, or both, attended to the store in 1830. Mr. Belding was very common' at the store.

504 Quest. How many houses were there below where Mr. Belding kept his goods?

Ans. I think, as well as I can recollect, there was the Millard cabins, the Davis cabins, and perhaps one other, the Ward cabin. I can't recollect. I don't recollect that there was any cultivation at the Millard cabins or the Davis cabins in 1829.

Quest. Did Mr. Richard C. Hawkins ever live at the Hot Springs and keep them? If so, at what time, and of whom did he get them?

Ans. He did live there in 1831 and 1832; don't know who he got them of, but he succeeded Thompson.

Quest. Do you know who next had possession?

Ans. The Physics were there next, and I always understood that they and Percifull and the Physics kept them in partnership. They had possession, the next I knew of them after Mr. Hawkins quit.

Quest. Was Mr. Belding in the neighborhood when Physics and Percifull had possession of the springs, and did he know they had possession?

505 Ans. He lived within six miles of the springs, and presume he knew it; he was in other business.

Quest. Did you ever know of Belding opposing or trying to interfere with Physic's and Percifull's possession of the springs?

Ans. I don't know that I ever did.

Quest. What was the value of the work done on the strip of a patch, or a lower patch spoken of, to put in fix for cultivation?

Ans. Some 5 or 6 dollars.

Quest. Are there any house or houses now standing where said patch was; if so, whose were they?

Ans. There were, and they belonged to Henry M. Rector.

Quest. Are you the brother of Mrs. Lydia Belding?

Ans. I am, I suppose.

Cross-examined by counsel for the heirs and legal representatives of of John Percifull, dec'd:

506 Quest. Where was the residence of said L. Belding and his family during all the month of July, 1832?

Ans. I think they resided at the Gulpha. They did not reside at the Hot Springs at that time.

Quest. Where did Mrs. Lydia Belding and family reside in the month of June, 1834?

Ans. I think they lived on the Gulpha, either in the house where Belding died, or my father's house, which are both on the same quarter-section, to which Mrs. Belding has since that time established the right of pre-emption under the act of 1840, as I think.

Quest. How much cleared land was there on the said last-named quarter-section of land in the year 1829?

Ans. I suppose there was about 25 acres of land.

Quest. How many houses, and what was the description of the houses occupied by L. Belding and family, on the Gulpha, in 1830?

Ans. A dwelling-house and kitchen.

Quest. What improvements did said Belding make there from the year 1830 to the 4 July, 1832?

Ans. I think a small store-house and corn-crib.

507 Quest. What was the improvements, and how much cleared land was there on said quarter-section in 1840, and from that time until the present?

Ans. Not knowing, I cannot say how much was or is cleared; but there have been some improvements and some land cleared since 1834, but I cannot say to what extent.

Quest. Does Mrs. Lydia Belding still live on the same quarter-section?

Ans. She does.

Whereupon, the examination of the witness not being closed, it is adjourned until to-morrow morning, 9 o'clock.

(Signed) B. F. HEMPSTEAD, *Rec'r.*
WM. H. ETTER, *Register.*

Parties met pursuant to adjournment, and proceeded with the examination of David Bassett:

Quest. When you speak of the Gulpha, or the farm at the Gulpha, do you mean the farm and improvements on the quarter-section
508 which Mr. Belding entered by virtue of the pre-emption?

Ans. I do.

Quest. Who succeeded the partners Physic and Percifull in possession of the improvements upon the quarter-section including the Hot Springs?

Ans. I don't know now. I recollect of Mr. Reyburn and Mr. McWilliams being there at some time; but don't know who succeeded the Physic and Percifull.

Quest. Who has possession of the improvements and houses at the springs now?

Ans. There is a good many; Mr. Hale has some, Mr. Rector has some, Sumpter, and others.

Quest. What is the extent and value of the improvements upon the part in possession of Mr. Hale?

Ans. I would suppose there are 30 or 40 rooms, but don't know; would suppose it would cost at least fifteen hundred dollars to put the improvements.

Quest. What is the extent and value of the improvements upon
509 the part in possession of Mr. Rector?

Ans. I would suppose about the same number of rooms and the same cost, and can't state particularly as to the extent *of* value of the improvements of the others.

Quest. Is Mr. Grant, the gentleman now sitting in the room, the same Mr. Grant you speak of as having built houses for Mr. Belding in 1829?

Ans. He is the same gentleman.

Quest. by Mr. Rector. Did you or not deliver corn to Mr. Belding to supply the Indians in 1831, from the farm on the Gulpha, which corn belonged to Mr. Belding?

Ans. I hauled corn of' the Bale place on the Gulpha—the place that I now live on—I think in 1831.

Re-examined by Belding's heirs:

Quest. When you say that Belding and Byrd were engaged in furnishing Indians in 1831 and 1832, do you mean that they had a
510 contract to supply Indians then emigrating through this country to the Indian nation west?

Ans. The' had a contract to furnish emigrating Indians about that time.

Quest. Is the whole or only a part of the upper garden cultivated by Belding included in what is now called Mr. Rector's horse-lot?

Ans. I don't know. It has been so long since I can't say whether the whole or only a part. I know a part of it is included.

Ans. Quest. How long did Mrs. Belding stay in the Bunyan houses and keep boarders?

Ans. I think she perhaps stayed a couple of months, and think it was a temporary move. She still kept up the other place. It was after the death of Mr. Belding, but don't recollect the precise time. It was during the watering season, in the summer-time.

Quest. State whether you and your family and Mrs. Belding and her family have been on friendly terms for several years passed.

Ans. We have not for the last 2 or 3 years.

511 Quest. About what was the value of the houses and improvements possessed by Belding at the springs?

Ans. Perhaps four hundred , or about that.

Question by Rector. Has there not been a recent reconciliation between yourself and your sister, and are you not now on friendly terms?

Ans. Not particularly friendly.

DAVID BASSETT.

Sworn and subscribed before me this 25 day of Jan'y, 1851.

B. F. HEMPSTEAD, *Rec'r.*

And at the same time and place appeared WILLIAM CONER KELLEY, a witness produced on the part of the heirs of Ludovicus Belding, dec'd, who, being duly sworn, deposes and says:

That he has known the Hot Springs from the year 1826 until now. I have been living in the vacinity of the Hot Springs during all
512 that time; that Ludovicus Belding and his family lived at the Hot Springs in 1829. He cultivated some ground there in 1829. Myself and Mr. Davis broke up the ground for Mr. Belding, and I think he paid us in tobacco and liquor. The place we ploughed up for Belding is in the upper end of the valley, where there is now a horse-lot, where there is a sort of V. Mr. Belding cultivated that place in 1829, and raised corn, beans, potatoes, and water-melons, and old Mrs. Bassett gave me water-melons to eat in her house on Christmas-day. Mr. Belding and his family lived at the springs during all the year 1829, and Mr. Belding kept a store there—liquor and dry goods—and kept a public house, and took in boarders. He also kept a store there in 1830. He did not keep these (the goods) himself. The' were attended by Mr. Ecles. Mr. Ecles acted for Mr. Belding as his storekeeper or clerk. During Mr. Belding's absence he up his store there until the fall of 1830. The store was between the Millard houses and the houses Mr. Thomp
513 son lived in, above the Davis cabins, near where there had been some person buried. In those days the county was not surveyed, and after they were surveyed he could not tell whether the houses occupied by Mr. Belding as a storehouse in 1830 was on the same quarter-section that the Hot Springs are on or not. Mr. Belding cultivated another patch in the valley close by the dwelling where the lived, and below the other garden. It was cultivated in 1829 by Mr. Beldings or his family as a garden in onions, peas, and lettuce, etc. I think this patch or garden was about or near where Mr. Rector's bill'ard-room now is, and was on the same side of the creek that the houses were, and not more than 35 or 40 yards from where the buildings were. I think Mr. Belding moved his family away from the springs about the last of April or first May, 1830. He continued his store at the Hot Springs after

he moved his family away, and was in the habit of coming back to attend to his store at the Hot Springs during that summer. The
514 Hot Springs Valley appeared to be an evacuated place, and no person living there at all when Mr. Belding moved there. I think his wife was called Lydia Belding, who lived with him as his wife during the time they lived there. He built and improved some houses while he lived at the springs. He built 3, 4, or 5 cabins whilest he lived there, and repaired others, (old cabins.) The cabins he built were of hewed logs, were covered, and, I think, had puncheon floors. All the cabins that were there when Mr. Belding moved there looked old, and were out of repair—looked as though they had not been used for some time. Mr. Belding moved his store from the springs some time in November, 1830. Mr. Belding died, I think, some time in 1833. When he moved from the springs he moved out to where he built, near his father-in-law, old John Bassett—*Martha Burk*, of the Gulpha. The house in which Mr. Belding kept his goods at the springs in 1830 was not more than 50,
515 60, or 70 yards from where Mr. Hale's house now is. Don't know whether Mr. Belding cultivated the garden spoken of in 1828 or not. I left them about April of that year, and returned about the last of June, and can't say whether he did or did not. I have been in the habit of frequently going to and passing by the springs ever since I lived in that part of the country. Myself and Mr. Davis done the plowing spoken of for Mr. Belding in March, 1829.

Cross-examined by Henry M. Rector:

Quest. Where did you live when Mr. Belding got the springs of Mr. Percifull?

Ans. I can't answer the question, but I was living at the whetstone quarry, about 6 miles north of the springs, when Mr. Belding moved to the springs, but never knew of Mr. Belding's getting the springs from Mr. Percifull.

Quest. What time did Mr. Belding stop at the Hot Springs?

Ans. I think in February, 1828.

516 Quest. Were you at the springs when Mr. Belding arrived there?

Ans. I was not, but the first time I ever saw Mr. Belding was at the springs.

Quest. Who exercised ownership over the springs in 1826, when you first went there?

Ans. There were several claimed the springs—Mr. Ball, Mr. Paxton, and Mr. Davis, formerly Mr. Fulsome, and none others that I recollect of at that time.

Ques. Did you know Mr. John Percifull in those days, whose heirs are claiming the springs?

Ans. I did.

Quest. Did you ever hear Mr. Percifull claim the springs?

Ans. I have.

(Signed) WILLIAM C. his + mark KELLEY.

Sworn to and subscribed before me this 25th day of Jan'y, A. D. 1851.

B. F. HEMPSTEAD, *Rec'r.*

517 And at the same time and place appeared WILLIAM DAVIS, a witness produced on the part of Ludovicus Belding, deceased, who, being duly sworn, deposes and says:

I have been to and about the Hot Springs for about 30 years. I was

acquainted with one Ludovicus Belding, who settled at the Hot Springs in 1828 or 1829, in the month of February, I think. He tended a little garden; *that* I ploughed some in it for Mr. Belding, but don't know how much. It was either in 1828 or 1829; I know nothing about dates. Mr. William Kelley, the man who has been examined before the officers here to-day, assisted me in the ploughing. Mr. Belding raised garden vegetables on the same place the same year we ploughed it. Mr. Belding, while he lived at the springs, kept store and a little boarding-house. He continued the store at the springs after his family moved away. Mr Ecles attended to the store for him. I can't say how long he continued his store there after his family moved away. Mr. Belding had

518 some three or four houses built there while he lived at the springs; I don't remember exactly how many—one or two, or may be all were built of hewn logs; had floors, doors, and roofs. He, I think, repaired some of the cabins. The houses that Mr. Belding kept his store in the last year he kept there, was afterwards the upper end of the valley, where Mr. Hale's house now is—I would say about sixty yards—and to the left-hand side of the road going up the valley. There was another little patch near where Mr. Hale now lives, that Mr. Belding had cultivated while he lived there, as I supposed; it was called Belding's garden. Mr. Kelley and myself only broke up the upper garden for Mr. Belding one spring. Mr. Belding kept his store at the springs after his family moved away, one season, or as much as 2 or three months. The ploughing that Mr. Kelley and myself done for Mr. Belding was done in the spring of the year. I knew one Jonathan Bassett; he is now dead.

519 Cross-examined by Henry M. Rector:

Quest. What year did you come to Arkansas?

Ans. I don't know what year, but it was about thirty years ago.

Quest. Where did you stop?

Ans. At the Hot Springs.

Quest. Who was living there?

Ans. Old man Percifull, I think, was living there then.

Quest. Who had possession and was proprietor of the place up to the time Mr. Belding left it?

Ans. Mr. Percifull, as I understood.

Quest. Who succeeded Mr. Belding after he left the springs?

Ans. Mr. Thompson, I think, or Mr. Hawkins, one.

Quest. Who next kept the springs after Mr. Thompson?

Ans. I think Mr. Hawkins, may be.

Quest. Who next after Hawkins?

Ans. Littleton Physic and old Phil. Physic, who, as I understood, was there under Percifull's claim.

520 Quest. Who next after Mr. Physic?

Ans. I think Mr. Reyburn after Physic, and Mr. Hale after Reyburn.

Quest. Who did Mr. Hale and Mr. Woods get the springs of?

Ans. I think it was Mr. Denham or Mr. Percifull—among 'em—but I don't recollect now.

Quest. How much ground was there in the garden over the creek, and how much was it worth to fence in the garden and put it in fix for cultivation?

Ans. About a half an acre—may be more and may be less—and the labor would be worth, I suppose, 8 or 10 dollars, and may be more or less. It would not take much to fence in that bit of ground.

Quest. How much was there in the other little patch on this side of creek?

Ans. It was a small lot, about 18 or 20 feet wide, and probably 25 feet long.

Quest. Did you ever see any corn or pumpkins growing there?

521 Ans. I have only seen cucumbers, lettuce, and onions growing there.

Quest. Did you ever hear Mr. Belding say who he got the springs of?

Ans. I did not hear him say, but I understood he got them from Mr. Percifull.

Quest. Did you ever hear Mr. Belding claim the springs as having a pre-emption right to them?

Ans. Not that I recollect of.

Quest. Did Mr. Belding cultivate any corn on the Gulpha in 1829?

Not that I know of. Old Mr. Bassett, his father-in-law, cultivated corn there the year before Belding moved away from the springs, but don't know whether Mr. Belding was interested in it or not.

Quest. Do you recollect of Mr. Grant's building some house' at the Hot Springs for Mr. Belding?

Ans. Yes; I knew of him working there for Mr. Belding—him and Mr. Walters, I believe.

522 Quest. Do you recollect of Mr. Grant's working down on the Gulpha in 1829 for Mr. Belding?

Ans. I knew of his working down there for old Mr. Bassett, as I understood.

Quest. Do you recollect of two houses built at the Hot Springs by Mr. Grant for Mr. Belding, that are standing there now?

Ans. I think I do; one of them anyhow.

Quest. In whose possession are they?

Ans. I do not know.

Quest. Has Mr. or Mrs. ever lived at the springs since they moved away?

Ans. Mrs. Belding went back and stayed awhile at the Runyon House, but don't know of either living there at any other time.

Quest. Has Mrs. Belding lived on the Gulpha ever since she moved there?

Ans. She has.

Cross-examined by the council for the legal representatives of John Percifull, deceased:

Quest. Did you understand that Grant worked on the farm at the Gulpha for old Mr. Bassett?

523 Ans. No one told me so. I supposed so from the fact of seeing him at work there.

Quest. Do you know who first settled the place on the Gulpha where Belding and Bassett lived?

A. It was settled before I came to the country; it is said by one Isaac Cotes.

Quest. Who owned and lived on the place the year before old Mr. Bassett moved there?

Ans. I think it was one John Kuhler.

Quest. To whom did Mr. Kuhler sell the place?

Ans. To old Mr. Bassett or Belding, I can't tell which. I expect it was old man Bassett bought it.

Quest. Was old man Bassett the father-in-law of Ludovicus Belding, and did they come to the country together and live together as one family for any length of time; and, if so, how long?

Ans. It was said he was Belding's father-in-law; came to the country together; lived together; can't say how long they lived together.

524 Quest. Had the ground you and Kelley ploughed for Belding ever been cultivated before?

Ans. Don't know that it had been, but suppose it had, from appearance.

Quest. Are you the same person who testified as a witness in attempting to establish a pre-emption right for Mrs. Belding, under pre-emption act of 29 May, 1830?

Ans. I suppose I am.

Quest. Are you the same person who gave your deposition before Lawson Runyan, a justice of the peace in Hot Springs County, on the 22nd of June, 1850, in relation to the claims to the Hot Springs?

Ans. I suppose I am.

Re-examined by atty. for Belding:

Witness states that he can neither read 'or write.

Mrs. Belding stayed in the Runyan House five or six weeks, or something like that, since her husband's death.

his
WILLIAM + DAVIS.
mark.

Sworn to and subscribed before me this 25th day of January, 1851.

525 Mr. Wilson also offers the evidence upon cross-examination of Samuel Sorter whose testimony was taken January 27, 1851, before the receiver, B. F. Hempstead. (See Supreme Court record, printed page, 115.)

Cross-examined by the heirs of Belding:

Quest. What kind of vegetables were raised in the upper garden by Belding in 1829?

Ans. I recollect there was cucumbers and strawberries, and there was other vegetables, but I don't now recollect what. Mr. Belding and his family lived at the Hot Springs from the time I went there until they moved away in 1830. They occupied and used all the improvements. I have spoken of his having control while they stayed there.

Quest. Did Mrs. Lydia Belding, who is now here, always live with Mr. Belding as his wife while you knew him?

526 Ans. She did.

Quest. Do you know upon what quarter section Mr. Belding lived whilst at the springs?

Ans. I never saw the corner.

Quest. Did Mr. Percifull ever set up any other claim to the springs other than a pre-emption under the act of 1814?

Ans. Never any other that I heard of or understood.

Quest. What time did Belding buy out your claim and move to the Millard or Rogers' houses?

Ans. I don't recollect the date, but was before Mr. Belding and his family moved away from the springs.

Quest. What do you mean when you say that Mr. Belding was protecting the property for Mr. Percifull?

Ans. The timber and shade-trees—he grumbled about it, and said he (Belding) tried to prevent it; could not.

527 Quest. When you speak of having conversations with Belding relative to his holding under Percifull, was that while Belding lived there or afterwards?

Ans. It was while he lived there.

Quest. How long did Mr. Belding continue his store at the springs after his family moved away?

Ans. I think he continued it through the springs and summer after.

In response to other questions witness state': "I don't know whether the garden spoken of was cultivated before 1829. Mr. Belding paid Mr. Moore and myself for the Millard or Rogers houses. The small garden and the houses occupied by Mr. Belding whilst at the springs was south or probably a little west of south from *from* the upper garden. The times spoken of that Mr. Belding was frequently at the store, was after his family had moved away. The business was done in his own name. I remained in the Millard House a week or two after I sold to Belding. He built me a house on the side of the mountain, on the east side
528 of the creek. Yancy and Lawrence moved into the Millard house before I moved out. I moved into the kitchen to give them room. They rented the house from Mr. Belding, and after they moved out Mr. Natribe lived in the same houses. I understood Col. Natribe rented from Mr. Belding, and paid for them in advance. I think there was a misunderstanding between Mr. Belding and Percifull about the springs. Mr. Percifull heard from Mr. Kelpner that Belding and Thompson were going to cheat him out of the springs, and I understood that Mr. Percifull came up to Mr. Belding's house with his gun. I don't think Percifull *as* a very dangerous kind of a man; he was not looked up' as a cow*ered* either. I've never seen him in any scrape. Mr. Belding cultivated the garden spoken of in 1829 for the use of his family. John Percifull lived in 1829 and '30 on the Washita River, seven, 8, or 9 miles from the springs; I don't know exactly what they call it.
529 He, Percifull, cultivated a farm on the Washita in the years 1829 and 1830.

Re-examined by Henry M. Rector:

Quest. Where was the house situated that Mr. Belding built for you on the side of the mountain?

Ans. On the east side of the Hot Spring Creek, on the side of the Hot Spring mountain. That was part of the pay that I got from Mr. Belding for the house in the valley. I think I lived in that house some two or three months, and then sold it to Moor'. It appears to me that Belding and Percifull were friendly after the time I have spoken of Percifull's going to Belding's house with his gun. I never heard Mr. Percifull threaten to shoot or to harm Mr. Belding in his life. Mr. Percifull generally carried his gun when riding about through the country; he was sometimes without it.

(Signed) SAMUEL SORTER.

Sworn to and subscribed before me this 27 day of Jan'y, 1851.

(Signed) B. F. HEMPSTEAD, *Rc'r.*

530 *day of Jan'y*, 1851.

B. F. HEMPSTEAD, Rec'r.

Decision of Receiver B. F. Hempstead.—(*S. C. R., printed page*, 390.)

RECEIVER'S OFFICE AT WASHINGTON, ARKANSAS,
February 13, 1851.

In obedience with instructions, I have the honor to report that I have with great care examined the evidence for, as well as against, the claim of the legal heirs and representatives of Ludovicus Belding, de-

ceased, to a pre-emption to what is known as the Hot Springs, and the result of this examination is that I find it is abundantly shown that—

First. Ludovicus Belding was in possession of the Hot Springs on the 29th day of May, 1830; not in his own right, however, but
531 as tenant under and by virtue of a lease from John Percifull, who, it is shown, claimed said springs and had possession of them; and—

Second. That said Ludovicus Belding did cultivate, or cause it to be done, a portion of the land embraced in the quarter section on which the Hot Springs are situated; but that he only acquired the right to cultivate said land by means of said lease from John Percifull to him; and—

Third. That all the improvements which said Belding put on said quarter section during the time he held possession were made in accordance with an express agreement between him and Percifull that he should do so, and was the consideration on which Percifull leased the springs to him, and that said improvements were made for the use and benefit of said Percifull, and not Belding; and—

Fourth. That the purchase of the Millard cabins was made by Belding for the use and benefit of John Percifull, and not for his own
532 use and benefit, no longer than the time of his said lease; and—

Lastly. For the foregoing reasons, and assuming the position to be correct in law as well as good conscience, that the possession of the tenant is the possession of the landlord, I do not consider that said Belding was a settler or occupant on the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, on the 29th day of May, 1830; or that he cultivated land on said quarter section prior to that time, within the meaning and spirit of the law; and that, consequently, the heirs and legal representatives of said L. Belding, dec'd, are not entitled to enter said land by pre-emption under the provisions of the act approved 29th May, 1830, or of any act supplemental to the same.

(Signed) B. F. HEMPSTEAD, *Rec'r.*

Letter of Register Wm. H. Etter, deciding in favor of Belding.

REGISTER'S OFFICE, WASHINGTON, ARKANSAS,
March 22nd, 1851.

533 SIR: In obedience to your letter of instructions, dated 23rd of October, 1850, remanding to the land-office for this district the different pre-emption claims to the tract of land upon which the hot springs are situate, for re-investigation and adjudication by the register and receiver, without regard to questions of law, which are reserved for the determination of the Department, I beg leave to report that, upon a careful investigation of the testimony adduced by the heirs and legal representatives of Ludovicus Belding, deceased, in support of a pre-emption right to the southwest quarter of section *thirty* thirty-three, (33,) in township two (2) south, in range nineteen (19) west of the 5th principal meridian, in right of said Ludovicus, deceased, and upon due consideration of the testimony produced before the register and receiver adverse to said claim, it is, in my opinion, clearly proven that the said Ludovicus Belding did culti-
534 vate on said southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, in the year 1829; and that he had possession of the same on the 29th day of May,

1830, as required by the first section of the pre emption law, approved the 29th May, 1830.

WM. H. ETTER, *Register.*

I hereby certify that the foregoing papers contain a true and correct copy of the testimony produced on the investigation of this case before the register and receiver, and also of the opinions of the register and receiver endorsed thereon.

In testimony whereof I have hereunto affixed my hand this 24th day of March, 1851.

WM. H. ETTER, *Register.*

535 Mr. Wilson also offers certified copies of papers from General Land-Office, received and filed in the Court of Claims, as follows:

Letter of Commr. G. L. O., J. Butterfield, deciding in favor of Belding.

GENERAL LAND-OFFICE, *August 26th*, 1851.

SIR: I have the honor to acknowledge the receipt of your letter of the 2nd instant returning the papers in the Hot Springs case, in order that this Office may pass its judgment upon the pre-emption claims as recently returned by the local land-officers, and report the result to you by the 1st proximo.

The subject has been fully considered by this Office, and the pre-emption claim of the heirs of John Percifull, under the act of 1814, is regarded as settled by the action of the land-officers, there being a want of concurrence in opinion upon the question of fact as to the actual inhabitancy and cultivation of the land at the period required
536 by the law by the district officers.

In reference to the pre-emption claim of Belding under the act of 1830, both officers agree as to the cultivation in 1829 and possession on 29th May, 1830; the register unqualifiedly deciding upon the testimony furnished that such cultivation and possession was fully established and in a manner to entitle the party to the right claimed; whilst the receiver, though agreeing as to the performance of these acts by Belding, is of opinion they were done by him as the tenant of another.

This Office is of opinion that the judgment of the register is the correct one in the matter, the testimony taken in connection with all the acts of the claimant being such as to negative the idea of Belding acting as the mere agent or lessee of another in what he may have done upon the land; and, in the absence of all authority to recognize the right or power in any individual to lease the public land to another, acts
537 performed in accordance with the requisitions of the law, and made the basis of a right under it, should be regarded as inuring to the benefit of the person performing them, wherever there is good ground to believe that the animus directing and controlling these acts was in good faith to acquire whatever rights or benefits might accrue therefrom as a settler or occupant of the public lands.

The opinion thus expressed is founded solely upon the testimony in the case herein referred to, entirely irrespective of any questions of law involved in the matter because of other conflicting claims, questions which have heretofore been reserved by the Department for its action after opinions heretofore given in relation thereto.

I have the honor to return herewith all the papers in the matter.

With much respect, your obedient servant,

J. BUTTERFIELD,
Commissioner.

Letter of Secretary of the Interior to Commr. of G. L. O.

538 DEPARTMENT OF THE INTERIOR,
Washington, November 21st, 1851.

SIR: Upon consultation with the Attorney-General, and after full consideration of the application of A. H. Lawrence, esq., attorney for the heirs of Ludovicus Belding, one of the claimants to the hot springs of Arkansas, on appeal from your decision of the 15th ultimo against permitting said heirs to make an entry under the acts of 29th May, 1830, and 14th July, 1832, I have concluded that it will be proper and in accordance with precedent to permit them to do so; and you will, therefore, instruct the register and receiver accordingly.

Said entry will remain subject to the same power of revision and control by the General Land-Office and this Department as may be lawfully exercised over any ordinary entry. The Government will still hold the ultimate power of protecting its own rights, while the claimants will merely be placed in a position to contest the adverse claims of others to the same land.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

The COMMISSIONER OF THE GENERAL LAND-OFFICE.

539 Mr. Wilson also offers, from Supreme Court record in the case of Wm. H. Gaines et al. vs. J. C. Hale and H. M. Rector, (under stipulation page 196 of this record,) the following evidence:

Letter Commr. of Gen'l Land-Office to register & receiver. (S. C. R., printed page 57.)

GENERAL LAND-OFFICE, *November 25th*, 1851.

GENTLEMEN: The papers accompanying your letters of the 18th and 24th March last, in reference to the claims to the hot springs in Arkansas, having been submitted to the Secretary of the Interior for his action on the legal point in the case, to wit, the reservation of the land by Congress, they were returned to this Office for its decision on the respective merits of the pre-emption claims irrespective of this question. On the 26th of August last, this Office returned the papers with its decision adverse to the claim of the heirs of John Percifull, and in favor of that of the heirs of Ludovicus Belding; it agreeing with you both as to the establishment of the facts of cultivation in 1829, and possession on 29th May, 1830, and regarding the objections of the receiver, founded upon the opinion that those acts were performed as the tenant of
540 another, as not effecting the validity of the claim.

On the 14th ult. this Office received the opinion and decision of the Secretary of the Interior, dated the 10th of *of* that month, in which he sustains the existing validity of the act of 20th April, 1832, it not having been repealed or effected by any subsequent laws, and that therefore none of the claims preferred for this land are of any legality.

On the said 14th ult. an application was made by the attorney of the heirs of Belding for permission to make an entry of said claim, "in order that they may be placed in a proper position for the assertion of their rights hereafter in the courts," stating that, of course, under the decision of the Secretary, they should not ask for a patent. This was refused by this Office, and an appeal from that action taken to the

Secretary of the Interior, who, on the 21st inst., addressed this
541 Office a letter, a copy of which is herewith inclosed.

In accordance with the direction of the Secretary therein contained, you are instructed to permit the "heirs of Ludovicus Belding" to make payment for the S. W. qr. sec. 33, T. 2 S., R. 19 W., containing 160 acres, and in addition to the ordinary thereof upon your books, and the return to this Office, you will note the fact of its interference with the New Madrid location of Langlois, of its embracing land directed to be reserved by act 20th April, 1832, and that said entry is permitted under the Secretary's decision of the 21st Nov., 1851. Similar annotation will be made on the receiver's receipt, and the register' certificate.

Respectfully, your obt. servt.,

J. BUTTERFIELD,
Commissioner.

REG. and RECEIVER,
Washington, Arkansas.

542 *Application of heirs of Ludovicus Belding to enter.—Register's certificate and note, December* 19, 1851.—*(S. C. R., printed page* 199.*)*

No. 6545.] LAND-OFFICE, WASHINGTON, ARK.,
December 19th, 1851.

We, Maria Gaines, (wife of William H. Gaines, late Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, Arkansas, do hereby apply to purchase the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, as containing one hundred and sixty acres, for which we have agreed with the register, acting under instructions from the Commissioner of the General Land-Office, bearing date the 25th of November, 1851, to give at the rate of one dollar and twenty-five cents per acre.

A. BELDING.
MARIA GAINES.
HENRY BELDING.
GEORGE BELDING.

543 I, William H. Etter, register of the land-office at Washington, Arkansas, do hereby certify that the tract above mentioned is sold as containing one hundred and sixty acres, as mentioned above, and the price agreed upon is one dollar and twenty-five cents per acre.

WM. H. ETTER, *Register.*

NOTE.—In accordance with instructions, I note the interference of this entry with the New Madrid location of Langlois; of its embracing land directed to be reserved by the act of 20th April, 1832, and that the entry is permitted to be made under the decision of the Secretary of the Interior of the 21st of November, 1851, transmitted to this office by the Commissioner of the General Land-Office, under date 25th November, 1851.

WM. H. ETTER, *Register.*

544 Mr. Wilson also offers certified copies of papers from the General Land-Office, filed in the Court of Claims, as follows:

Certificate of register for entry of heirs of Belding.

No. 6545.] LAND-OFFICE AT WASHINGTON, ARKANSAS,
December 19th, 1851.

It is hereby certified that, in pursuance of instructions from the Commissioner of the General Land-Office, bearing date November 25th, 1851, Maria Gaines, wife of William H. Gaines, (late Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, State of Arkansas, on this day purchased of the register of this office the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, as containing one hundred and sixty acres, at the rate of one dollar and twenty-five cents per acre, amounting to the sum of two hundred dollars, for which the said Maria Gaines, late Maria Belding, Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased,
545 have made payment in full. In accordance with instructions, I note that this entry interferes with the New Madrid location of Francis Langlois; that it embraces land directed to be reserved by the act of Congress approved 20th April, 1832, and is only permitted to be made under the decision of the Secretary of the Interior, bearing date November 21st, 1851, and the instructions of the Commissioner of the General Land-Office, dated November 25th, 1851, in accordance with said decision.

WM. H. ETTER, *Register.*

Pre-emption act of 29th May, 1830.

Receipt of receiver, B. F. Hempstead, for purchase-money of heirs of Belding.

No. 6545.] RECEIVER'S OFFICE AT WASHINGTON, ARKANSAS,
December 19th, 1851.

Received from Maria Gaines, wife of William H. Gaines, (formerly Maria Belding,) Albert Belding, Henry Belding, and George Belding, the heirs and legal representatives of Ludovicus Belding, deceased,
546 of Hot Spring County, in the State of Arkansas, the sum of two hundred dollars in full for the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, containing one hundred and sixty (160) acres, according to the return of the surveyor-general, at $1.25 per acre. According to instructions, I note that this entry interferes with the New Madrid location of Francis Langlois on the same lands; and also that it embraces lands directed to be reserved by the act of Congress of 20th April, 1832, and is only permitted to be made under the decision of the Secretary of the Interior under date of November 21st, 1851, and the instructions of the Commissioner of the General Land-Office under date of November 25, 1851, in accordance with said decision.

$200.] B. F. HEMPSTEAD, *Receiver.*

Pre-emption act of 29th May, 1830.

547 *Reply of Department of Interior to call of Court of Claims, giving extract from tract books of General Land-Office*

United States Court of Claims, December term, 1871.

WILLIAM H. GAINES AND HIS WIFE, MARIA Gaines, (formerly Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs at law of Ludovicus Belding, deceased,
vs.
THE UNITED STATES.
No. 6208.

Now come the said claimants, by John Wilson, the solicitor in said cause, and moves that the Hon. Secretary of the Interior be requested to transmit to this court original papers, as follows :

Certificate No. 6545, issued by William H. Etter, the register of the United States land-office at Washington, Arkansas, on the 19th December, 1851, to Maria Gaines, wife of William H. Gaines, (late Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, of Hot Springs County, and State of Arkansas, for the southwest quarter of section thirty-three, township two south, range nineteen west; the receipt given at the same time to the same parties for the purchase-money of said land, bearing the same number, and signed by B. F. Hamstead, receiver; also a duly-certified copy of the entry of said land as posted in the tract-books of the General Land-Office.

JOHN WILSON,
Solicitor for Claimant.

(Indorsed :) No. 6208. U. S. Court of Claims. W. H. Gaines & others vs. The United States. Motion requesting copies of papers from the Int. Department. Allowed 14th April, 1873. E. Peck, judge. John Wilson, solicitor for claimant. Filed & issued April 14, 1873. J. R.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
4156.] *Washington, D. C., May* 10, 1873.

JOHN RANDOLPH, Esq.,
Assistant Clerk, Court of Claims :

SIR: Referring to your requisition on the honorable Secretary of the Interior, dated April 14, 1873, and your note of the 5th instant endorsed on my letter of the 30th ultimo, I have now to enclose the original certificate and receipt in the Washington, Arkansas, cash entry No. 6545, in favor of Maria Belding et al., dated December 19, 1851, embracing southwest quarter-section 33, township 2 south, range 19 west; and also a certified copy of the entry of said tract as posted in the tract-books on file in this Office.

I am, very respectfully, your obedient servant,
W. W. CURTIS,
Acting Commissioner.

RECEIVER'S OFFICE AT WASHINGTON, ARKANSAS,
No. 6545.] *December 19th*, 1851.

Received from Maria Gaines, wife of William H. Gaines, (formerly

Maria Belding,) Albert Belding, Henry Belding, and George Belding, the heirs and legal representatives of Ludovicus Belding, deceased, of Hot Spring County, in the State of Arkansas, the sum of two hundred dollars in full for the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, containing one hundred and sixty (160) acres, according to the return of the surveyor-general, at 1.25 per acre. According to instructions, I note that this entry interferes with the New Madrid location of Francis Langlois on the same lands, and also that it embraces lands directed to be reserved by the act of Congress of 20th April, 1832; and is only permitted to be made under the decision of the Secretary of the Interior, under date of November 21st, 1851, and the instructions of the Commissioner of the General Land-Office, under date of November 25th, 1851, in accordance with said decision.

$200.] B. F. HEMPSTEAD, *Receiver.*

(Written across the face:) Pre-emption act of 29 May, 1830.

(Indorsed:) Rect. No. 6545. Washington, Ark's. No. 87.

548 No. 6545.] LAND-OFFICE AT WASHINGTON, ARKANSAS, *December 19th*, 1851.

It is hereby certified that, in pursuance of instructions from the Commissioner of the General Land-Office, bearing date November 25th, 1851, Maria Gaines, wife of William H. Gaines, (late Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, dec'd, of Hot Spring County, State of Arkansas, on this day purchased of the register of this office the southwest quarter of section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, as containing one hundred and sixty acres, at the rate of one dollar and twenty-five cents per acre, amounting to the sum of two hundred dollars, for which the said Maria Gaines, (late Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased. have made payment in full. In accordance with instructions, I note that this entry interferes with the New Madrid location of Francis Langlois; that it embraces land directed to be reserved by the act of Congress approved 20th April, 1832; and is only permitted to be made under the decision of the Secretary of the Interior, bearing date November 21st, 1851, and the instruction of the Commissioner of the General Land-Office, dated November 25th, 1851, in accordance with said decision.

WM. H. ETTER, *Register.*

(Written across the face:) Pre-emption act of 29 May, 1830.

(Indorsed:) Certificate 6545. Washington, Arkansas. Certified copy sent to Wm. H. Gaines, esq., Hot Springs, Arkansas. June 13, 1854. No. 87.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE, *May* 10, 1873.

I, W. W. Curtis, Acting Commissioner of the General Land-Office, do hereby certify that the annexed copy is a true and literal exemplification from the records of this Office.

In testimony whereof I have hereunto subscribed my name and caused

the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] W. W. CURTIS,
Acting Commissioner of General Land-Office.

Township No. ; range No. ; district No. .

Description of tract.				Contents.		Rate per acre.	Purchase-money.		Name of the purchaser.	Date of sale.	Number of receipt and certificate of purchase.	To whom patented.	Date of patent.	Where recorded.	
Part of section.	Section.	Township.	Range.	Acres.	100ths.	Dollars.	Cents.	Dollars.	Cents.						Volume.	Page.
S. W.4	33	28	19 W.	160	00	1	25	200	00	Maria Gaines, (late Maria Belding.) Albert Belding, Henry Belding, and George Belding, heirs of L. Belding.	1851. Dec'r 19.	6545				

Deposition of John Wilson, for claimants, taken at Washington, District Columbia, on the 11th day of April, 1873, and filed in Court of Claims.

First general interrogatory by the commissioner. Please state your name, your occupation, your age, your place of residence the past
549 year; whether you have any interest, direct or indirect, in the claim which is the subject of inquiry; and whether, and in what degree, you are related to the claimant.

Answer. My name is John Wilson. My occupation is attorney at law. My age is sixty-four. My residence is Washington, D. C. I have no interest in this claim, except as attorney. I am related in no manner to the claimants.

Being interrogated by Hon. James Hughes, counsel for claimants, the witness says:

Question. State what your connections have been in the past with the General Land-Office.

Answer. In 1831 I was appointed in the General Land-Office, as messenger to do clerical duty, and was steadily promoted until in 1837, when I was clerk of pre-emptions. I then resigned and went into business for myself. In 1841 I was appointed clerk of surveys. Afterwards I was promoted to be principal clerk of public lands. I was appointed by Mr. Fillmore Commissioner of the General Land-Office, and in 1855 I left the office to go West.

Question. Are you familiar with the forms of doing business in reference to the entries and cancellation of entries in the issue of patents?

Answer. Thoroughly. I have gone through every branch of the Land-Office with my own head and hands.

Question. Explain what the process is, in the usual course of business in the Office, by which an entry and certificate of entry for land are cancelled.

Answer. The certificate is authority for the issue of the patent. The certificate of the Office declares that A B, or the party to whom the certificate is issued, shall be entitled to receive a patent for the land described therein; and in many States that is made sufficient evidence of title to maintain an action of ejectment. In canceling an entry a line is drawn through it on the tract-book, and the word "canceled" is written across the face of the certificate and receipt, with a reference to the authority or reason for canceling.

Question. State when you last saw the entries on the tract-books, and the certificate in the case of Belding's heirs for the hot springs tract of land, and describe it as carefully as you can.

Answer. The certificate No. 6545 was issued on the 19th December, 1851, by the officials at Washington, Arkansas, to Maria Gaines, wife of Wm. H. Gaines, (late Maria Belding,) Albert Belding, Henry Belding, and George Belding, heirs and legal representatives of Ludovicus Belding, deceased, of Hot Springs County, State of Arkansas, for the southwest quarter of section thirty-three, township two south, range nineteen west. This certificate was issued under instructions from the General Land-Office, and the certificate states that it interferes with the New Madrid location of Francis Langlois, and embraces land directed to be reserved by act of 20th April, 1832; the entry being permitted under decision of the Secretary of the Interior, of November 21, 1851, and of instructions of the Commissioner, of November 25th, 1851, signed by William H. Etter, register. And a receipt, of the same number and date, for the same tract, containing the same notes, was issued by B. F. Hempstead, receiver. I examined that certificate and receipt this morning.

Question. State where they are.

Answer. They are on file in the pre-emption division of the General Land-Office. I examined them this morning at 10 o'clock, and neither the certificate nor receipt had any mark of cancellation on it at that time. The entries in the tract-books I have not examined. Across the face of the certificate and receipt the words "Pre-emption act, 29th May, 1830," are written in the handwriting of Dr. Charles Frailey, formerly pre-emption clerk in the General Land-Office.

(Mr. McCammon enters an objection to this testimony by parol, as not being the best evidence.)

Question. State what you know concerning Major William H. Gaines's loyalty in relation to the war, how long you have been acquainted with him, &c.

550 Answer. I have known Major Wm. H. Gaines, of Arkansas, for nearly forty years, and intimately well for years before the war. He is one of the claimants in this case. I knew that, up to the war and some little time after the beginning of the war, he was one of the most devotedly loyal men, from his acts and speech, and denunciations of the whole of these hostile movements of the South; and so well was his loyalty understood, that General Cameron told me, if it were possible, he should order a supply of provisions sent down to him at my instance, but did not for fear of them falling into the hands of other parties. Of course, after the war broke out, we were shut out from each other. But Major Gaines came on here again in 1865, and I found that he entertained just the same views exactly that he had previously entertained. He came here to get a pardon—having been forced, as everybody had been down there, to do many things against his views and wishes. I knew the fact. I was Third Auditor of the Treasury at the time, and interested myself to explain the matter to the Attorney-General to have his pardon issued. I think, also, he wanted to get labor

to cultivate his fields in Arkansas. I have always considered Major Gaines as devotedly loyal to the Government of the United States in every particular, not tacitly, but actively so, as far as he could be.

Question. State his age.

Answer. I do not know; but I think he must be seventy-four or seventy-five years of age, according to my recollection of him. I know his whole heart and feeling were devoted to the cause of loyalty.

Cross-examination by Mr. McCammon:

Cross-question. How long have you been attorney for Major Gaines and the Belding heirs?

Answer. The contract was made with me shortly after I left the Third Auditor's Office—in 1867, I think.

Cross-question. How long have you been familiar with this certificate of entry of which you speak?

Answer. I can hardly answer the question, except in this way: I knew the fact when the certificate was issued. My particular attention, however, has been drawn to the certificates since I have been attorney in the case, though I knew the transaction all the way through, without probably having seen it more than once or twice from the time they were issued up to a comparatively recent date. I know the handwriting of every human being connected with the transaction.

Cross-question. You never heard of the cancellation of this certificate?

Answer. Never; I have heard it rumored that it was canceled, but when I came to examine it I found that such was not the fact.

Cross-question. An examination made lately?

Answer. No; prior to the passage of that law. It was the examination then that originated that law—that first called my attention to the fact.

Last general interrogatory by the commissioner. Do you know of any other matter relative to this claim? If so, state it.

Answer. I know of no other matter of testimony that I can give now.

JOHN WILSON.

Mr. Wilson also offers from Supreme Court record in the case of Wm. H. Gaines et al. vs. John C. Hale and Henry M. Rector (under stipulation as evidence) the following evidence:

551 *Certificate of Register William Moss as to date of filing plat.*—(*S. C. R., printed page* 125.)

EXHIBIT B, No. 1.

REGISTER'S OFFICE, WASHINGTON, ARK.,
March 15, 1860.

I hereby certify that I have examined the plats and tract-books in this office, and find that the township plat of town. 3 south, rang' 18 west, was filed in this office by the surveyor on the 21 day of June, A. D. 1841; and the plat of town. 2 south, range 19 west, on the 20th day of May, A. D. 1838; and town. 3 south, range 19 west, on the 30th day of June, A. D. 1843.

In testimony whereof I have hereunto set my hand this 15th day of March, A. D. 1860.

WILLIAM MOSS,
Register.

(Endorsement on Ex. B, No. 1:) Certificate of time of filing town plats. Exhibit B, No. 1. Filed July 8, A. D. 1860. Francis M. Hersy, clerk.

552 *Deed of John Percifull to Joseph Paxton, with certificate of Daniel Ringo.*—(*S. C. R., printed page* 158.)

EXHIBIT A TO DEFENDANT'S ANSWER.

RECORDER'S OFFICE,
Clark County, Arkansas, Aug. 27, '52.

This deed and indenture, made and entered into this fourth day of October, one thousand eight hundred and twenty-four, by and between John Percifull of the one part, and Joseph Paxton of the other part, both of the Territory of Arkansas, witnesseth:

That the said Percifull has this day bargained, sold, and conveyed, and by these presents do bargain, sell, and convey unto the said Joseph Paxton, all his right, title, claim, and interest of, in, and unto the warm springs, lying near the Ouachita River, in the county of Clark, in the Territory of Arkansas, together with all his right of pre-emption, and every advantage that said Paxton can obtain by any claim, which
553 conveyance said Percifull makes to said Paxton, his heirs and assigns forever, for and in consideration of one thousand dollars, to him the said Percifull paid, the receipt of which is hereby acknowledged; to have and to hold said claim, together with all the privileges and appurtenances thereunto belonging, the said Percifull forever warrants and defends to said Paxton, his heirs and legal representatives forever, and for which purposes binds himself, his heirs, and representatives, firmly by these presents, to defend against the claim or claims of all persons claiming of, by, or through the said Percifull, and all other claims, except those of the United States and other individual claims.

In testimony whereof I have hereunto set my hand and seal this 4th day of October, 1824.

(Signed) JOHN PERCIFULL. [SEAL.]

554 Signed, sealed, and delivered in the presence of witnesses:
(Signed) ALLEN M. OAKLEY.
JAMES S. CRAIG.

TERRITORY OF ARKANSAS,
County of Clark, sct:

I hereby certify that Allen M. Oakley, one of the subscribing witnesses to the foregoing deed of conveyance or instrument of writing, this day personally appeared before me, and on oath that he saw John Percifull sign, seal, acknowledge the same to be *to be* his act and deed, hand and seal, for the uses and purposes therein mentioned.

As witness whereof I have hereunto set my hand this 7th day of April, 1827.

(Signed) DAVID RINGO,
Justice of the Peace, Caddo Township, Clark County, A. T.

TERRITORY OF ARKANSAS,
County of Clark, sct:

555 I, Daniel Ringo, clerk of the Clark circuit court and ex-officio recorder for said county, do hereby certify that the foregoing deed of bargain and sale from John Percifull to Joseph Paxton, together with the certificate of proof thereof thereon endorsed, was this day produced to me in my office and ordered to be recorded; which is duly done.

562 *Decision of receiver in the case of John Percifull.*—(*S. C. R., printed page* 176.)

RECEIVER'S OFFICE, WASHINGTON, ARKANSAS,
Feb'y 10, 1851.

Upon examination of all the testimony of the legal heirs of John Percifull, deceased, for a pre-emption on the southwest quarter of section No. 33, in township No. 2 south, of range No. 19 west, known as the hot spring tract, I find, first, that John Percifull did actually inhabit and cultivate the tract of land above described, on and prior to the 12th of April, 1814; 2nd, that the legal heirs or representatives are entitled to enter the same under the provisions of said pre-emption law of 12th of April, 1814, at the minimum price of 1.25 per acre.

(Signed) B. F. HEMPSTEAD, *Recr., etc.*

Decision of register in case of John Percifull. (*S. C. R., page* 176.)

REGISTER'S OFFICE, WASHINGTON, ARKANSAS,
March 5, 1851.

563 Upon a careful investigation of all the testimony produced by the heirs and legal representatives of John Percifull, deceased, in support of a pre-emption claim to the southwest quarter of section thirty-three, (33,) in township 2 south, of range of nineteen (19) west of the fifth principal meridian, and known as the tract of land upon which the hot springs, in the State of Arkansas, are situated, as well as the testimony produced adverse to said claim, I am clearly of the opinion that said heirs and legal representatives of John Percifull, deceased, having failed to establish actual inhabitancy and cultivation as required by the act of 12th April, 1814, under which he claimed, are not entitled to the benefit of pre-emption. The application to locate is therefore rejected.

WM. H. ETTER, *Register.*

REGISTER'S OFFICE, WASHINGTON, ARKS.,
March 19th, 1851.

It is hereby certified that the foregoing pages contain a correct copy of the original testimony taken before the register and receiver, and forwarded to the Commissioner of the General Land-Office, on the 19th day of March, 1851.

WM. H. ETTER, *Register.*

564 *Decision of register and receiver in Cherokee pre-emption case No. 69.*—(*S. C. R., printed page* 133.)

LAND-OFFICE, WASHINGTON, ARK'S,
October 16th, 1850.

This application to locate Cherokee pre-emption No. 69, upon the southwest quarter-section thirty-three, (33,) in township two (2) south, of range nineteen (19) west, is rejected, in consequence of the land sought to or covered by said location appearing upon the records of this office as having been reserved from sale by order of the President of the United States, under date of 16 of May, 1839, under an act of Congress approved 20 April, 1832.

WM. H. ETTER, *Register.*
B. F. HEMPSTEAD, *Receiver.*

REGISTER'S OFFICE, WASHINGTON, ARK'S,
July 7, 1852.

I, Wm. H. Etter, register of the land-office at Washington, Ark
565 ansas, do hereby certify that the foregoing pages contain a true copy of the original certificate, transfer, and application, filed in this office by John Chaffin Hale, with the endorsement of the register and receiver thereon.

WM. H. ETTER, *Register.*

(Endorsement:) Ex. A, No. 16. Copy of Cherokee pre-emption certificate No. 69. Application transcript. John C. Hale vs. Wm. H. Gaines et al. Exhibit A, No. 16, to Hale's bill. Filed March 14, 1866. Hugh McCallum, clerk.

Lease of L. Belding to Richard C. Hawkins.—(*S. C. R., printed page* 33.)

Belding to Hawkins, Aug. 20, 1830.

This agreement, made and entered into at the Hot Springs, this twentieth day of August, in the year eighteen hundred and thirty, by and between L. Belding, of Hot Springs County, of the one part, and
566 Richard C. Hawkins, of the State of Mississippi, of the other part, witnesseth:

That the said Belding, for and in consideration of the sum of three hundred and fifty dollars, to him in hand paid, by two notes of hand given by said Hawkins to said Belding, one for two hundred and fifty dollars, payable the fifteenth of August next, and the other for one hundred dollars, payable on the first day of January, eighteen hundred and thirty-three, by the said Hawkins, the receipt whereof is hereby acknowledged, hath let, leased, granted, and given possession to the said Hawkins, his heirs or assigns, of all and singular the houses or cabins said Beldings has any interest or concern whatsoever in the valley of the hot springs, in the county of Hot Springs and Territory of Arkansas, from this day until the first day of January, eighteen hundred and thirty-three; said buildings or cabins being and constituting all the cabins in said valley, except one small cabin, owned by Mr. Bassett, and the four
567 cabins claimed by Asa Thompson, all of which cabins, claimed or owned by said Thompson, together with the ten-plate stove, said Hawkins is to pay said Thompson for, and at the expiration of said term of time, say on the first day of January, eighteen hundred and thirty-three, together with all of the houses or cabins named within this lease, and all the buildings or improvements that said Hawkins may make or cause to be made, deliver to said Belding or his assigns, in good order, except the natural wearing thereof, and the risk of fire; and the cabin owned or claimed by Wm. Davis is to be exempt from this lease; and it is expressly agreed and understood that said Belding warrants and guarantees said Hawkins in the peaceful possession of the before-named cabins, against any or all persons whatsoever, except the United States; and in case there should be a law passed by Congress, or the Executive of the General Government should dispossess, or by agent molest, the claim by which said Belding claims, and put it out of the power
568 of said Belding to keep said Hawkins in peaceable possession, said Hawkins is to give the whole possession named within up to the said Belding or his assigns, he or they refunding to said Hawkins the proportionable part of said rent for the time said Hawkins may loose

by such act of the General Government; and the said Richard C. Hawkins, his heirs, executors or administrators or assigns, shall and will, on the said first day of January, 1833, quietly peaceable give said Belding or assigns possession of said Hot Springs Valley, and all the improvements named herein.

In witness whereof each party has set his hand and seal to duplicates this day and date above written.

L. BELDING. [SEAL.]
RICHARD C. HAWKINS. [SEAL.]

In presence of—

Hawkins' affidavit.

STATE OF ARKANSAS,
County of Pulaski:

569 Personally appeared before the undersigned, an acting justice of the peace in and for said county, who, being sworn, says that in the month of May, 1829, he visited the hot springs in Arkansas, then Clark County, and that Ludovicus Belding was then residing there, and held possessien of said springs, or a part thereof, under a lease from John Percifull, and that said Belding cultivated the same year a small lot of ground as a garden, say about one-half acre. This deponent further says that about the latter part of the same year, the said Belding sold the lease and possession of the springs for the remainder of the term, which was three years, to Mr. Asa Thompson, who took possession of the same about the first of the year 1830, and that the same said Thompson continued the occupancy of the same till about the twentieth of August of the same year, at which time he, the said Thompson, sold the lease to this deponant, and was to give possession of the same on the 1st day of January, 1831, at which time, about the 20th of August, 1830, the original articles of agreement betweenPercifull and Belding, and between Thompson and Belding, were all cancelled, and this deponent executed his obligation to said Percifull for the delivery of the possession of said springs and all the houses and improvements belonging thereto, which this deponent did deliver to the said Percifull about the last of October, 1832.

Sale to Thompson latter art 1829; possession taken 1830.

Sale of Thompson and Hawkins Jun' 1, 1831; cancellation Aug 20, '30.

570

And further this deponent sayeth not.

RICHARD C. HAWKINS.

Sworn to before me and subscribed in my presence this 23 , A. D. 1838.

J. BROWN, *J. P.*

This is to certify that, whereas I hold Belding's lease for the hot springs, and have sold all of my right or pretensions to the said springs, or buildings, or improvements, or any other privilege in said Hot Springs Valley, unto Richard C. Hawkins, and that L. Belding having by my consent given said Hawkins a lease for said valley, I now declare said lease given me by said Belding to be void and of no effect, he having paid me for the same.

571

HOT SPRINGS, 20*th August*, 1830.

Said lease not being in possession, I am to give it up to said Belding as soon as I can find the same.

ASA THOMPSON.

Affidavit of Lorenzo Gibson, surveyor-general of the public lands.—(S. C. R., printed page 192.)

STATE OF ARKANSAS,
County of Pulaski, set:

I, Lorenzo Gibson, do state on oath that I was surveyor-general of the public lands of the United States in and for the State of Ark-
572 ansas from June, A. D. 1849, until some time in the year 1853. Some time in the year A. D. 1850, while I was such surveyor-general, I was informed by my clerks that Henry M. Rector had presented certain papers (duplicates of each other) purporting to be copies of a survey of a New Madrid location, embracing the hot springs of Arkansas. Upon being so informed by my clerks, I instructed them that if Mr. Rector should again offer to file said papers, to state to him that they could not be placed on the files of the office as part thereof, or of the records of the office, but that they could only be received as private papers, and subject to withdrawal by him as his individual papers and property; that I furthermore instructed said clerks, when said papers should be presented for such purpose, to endorse upon the same the date and by whom filed; that said papers were subsequently presented by said Henry M. Rector to my said clerks to be filed; whereupon my clerk, J. M. Danly, enwrapped the same with a piece of brown paper, and en-
573 dorsed on the wrapper, in obedience to my instructions, the date of and by whom filed. This was, I think, on the 18th day of June, A. D. 1850. One of said duplicates was subsequently withdrawn by said Henry M. Rector; I do not exactly recollect when, but it was during the year A. D. 1850. I was informed by my chief clerk, George C. Worthen, of the withdrawal by Mr. Rector of one of the said duplicates, and I therefore directed my said chief clerk to endorse upon the remaining duplicate the date of the time when and by whom filed, which he accordingly did, as directed by me on the 23rd September, A. D. 1850, and, to the best of my knowledge, such paper and the endorsement thereon remained on file in said office at the expiration of my term of office. Neither of said duplicates were in the office when I became surveyor-general, and whilst I was surveyor-general as aforesaid neither of said duplicates was ever recognized as part of the files or records of said office, nor known or recognized as any part of the office-papers
574 connected with the papers of New Madrid claim certificate No. 467. Mr. George C. Worthen was acting at the time as chief clerk in my office. And I do further state that the certified copy of the purported survey, under the hand and public seal of Thomas A. Hendricks, Commissioner of the General Land Office of the United States, is hereto annexed, marked "A," and the same is a true and correct copy of said duplicates with the exception of the endorsement placed upon the one remaining on file in the office, and not withdrawn as aforesaid by the said Henry M. Rector, and placed on the same by my order as aforesaid. When I speak of said duplicates being enwrapped in a piece of brown paper and endorsed as aforesaid by James M. Danley, I speak from the best of my recollection.

L. GIBSON.

Sworn to and subscribed before me, an acting justice of the peace, 21 January, 1856.

JAMES A. HUCHINGS, *J. P.*

575 *Affidavit of Geo. (C.) A. Warthen, chief clerk of surveyor-general of public lands.*—(*S. C. R., printed page* 193.)

STATE OF ARKANSAS,
County of Pulaski, set:

I, George C. Warthen, do state on oath that I was a clerk in the U. S. surveyor's office at Little Rock, Arkansas, from February, 1850, to April, 1855, embracing the remaining part of L. Gibson's term of office and the entire period of George Mulbaurris' term of office; that from April 1st, 1850, to the close of Lorenzo Gibson's administration of said office, I was the principal clerk, which position I held during the last 8 or 9 months of the term of office of George Mulbaurris, late surveyor-general. In June, 1850, whilst I was chief clerk as aforesaid, Henry M. Rector called at the said office and presented duplicate field-notes of what purported to be a survey of the New Madrid location, embracing the hot springs of Arkansas, which he requested to have filed, stating, at the same time, that they properly belonged to the said surveyor's office. After some conversation on the subject, in which he was distinctly informed that they could not be filed as a part of the
576 official papers connected with said New Madrid claim, he left the papers in the office; the duplicate papers were then filed in pieces of blank paper fastened with wafers by James M. Danly, one of the clerks of the office, and the date of filing, and by whom filed, endorsed by him on the said papers or envelopes, which paper and envelop', with its endorsement, were on file in said office when I was discharged therefrom, April, 1855. Lorenzo Gibson, the surveyor-general, was not in the office at the time said Rector presented said papers, but was immediately thereafter informed of the fact. On the 12th of September following, Henry M. Rector called at said U. S. surveyor's office, the surveyor-general being absent, and asked to withdraw one of the duplicate papers he had left, and to have it officially certified as a copy of an official paper connected with said New Madrid location. He was told that the paper in question constituted no part of the files or records of the office, but were his own private papers, subject to his
577 control, and could be withdrawn from the office by him at any time. He seemed very anxious to obtain a certificate, and I finally drew up and tendered him one, in which, to the best of my recollection, I certified that the paper was a duplicate or copy of one left by Henry M. Rector in the surveyor's office, purporting to be the field-notes of a survey of the New Madrid location-certificate No. 467, a copy of which certificate was on file with the papers connected with the New Madrid location No. 467, in the said U. S. surveyor's office, April, 1855, when I was discharged therefrom. The certificate, with one of the duplicate papers, were then taken from the office by Mr. Rector. When the surveyor-general returned he was informed of Henry M. Rector's visit to the office and what course had been pursued. He then directed me to endorse upon the duplicate paper left in the office the time when and by whom filed, and such other facts as were necessary to explain its character, which I did in the following words, to wit:

578 "SURVEYOR'S OFFICE, LITTLE ROCK, ARK'S,
"*2nd Sept.*, 1850.

"This paper and a duplicate of the same were left at this office to be filed with the papers of the New Madrid claim cert. No. 467, on the 18 day of June, 1850, by Henry M. Rector, but are not of record here, nor known as constituting any part of the official papers connected with

said claim. The duplicate was withdrawn by Henry M. Rector on the 12 day of Sept., 1850.

"GEO. A. WARTHEN,
"*Chief Clerk.*"

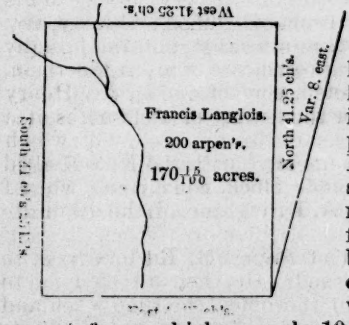
I then showed the endorsement to the general, who approved it as sufficient. Neither of said duplicate papers were on file in said office when I became a clerk there, nor were they, or either of them, ever, whilst I was clerk, either under L. Gibson or George Millburn, a period of near five years, recognized as any part of the files or records pertaining to said office, but were always regarded as the private
579 property of Henry M. Rector and subject to his order and disposal. The duplicate paper, with the endorsements aforesaid, was in the bundle of papers connected with the hot spring claim, New Madrid location No. 467, when I was discharged from the surveyor's office in April, 1856. I also state that the duplicate paper withdrawn by Henry M. Rector on the 12th Sept., 1850, was not again left in said office. I was discharged therefrom in April, 1855. I do further state that the certified copy of the purported survey (under the hand and public seal of Thomas A. Hendricks, Commissioner of the General Land-Office of the United States) is hereunto annexed, marked "A," and the same is a true and correct copy of said duplicates, with the exception of the endorsements placed upon the one remaining in the office and not withdrawn as aforesaid by the said Henry M. Rector, and placed on the same by me at the instance of Lorenzo Gibson, the surveyor-general.

GEO. A. WARTHEN.

Sworn to and subscribed before me, an acting justice of the peace, this 22nd January, 1856.

JAMES A. HUCHINGS, *J. P.*

580 *Exhibit A to Geo. A. Warthen's affidavit.—(S. C. R., printed page* 195.)



Survey No. 2903. Certificate No. 467.

Surveyed for Francis Langlois, or his legal representatives, 200 arpens of land located by virtue of a New Madrid certificate: Beginning at a post from which a pine, 10 inches in diameter, (marked thus: H. and R.,) bears S. 47° E. 8 lks.; thence south 7 chains; a creek, 15 links wide, runs east. At 41 chs. 25 lks. set a post, from which a pine, 15 inches in diameter, bears N. 47½° E. 23 links; thence east 19 chs. 25 lks., to Hot Spring Creek, 25 lks. wide, runs south. At 41 chs. 25 lks. set a post from which an oak, 10 inches in diameter, bears S. E. 6 links; thence north, at 41 chs. 25 lks., set a post, from which a' oak, 6 inches in diameter, bears S. 62° W. 16 links; thence west 41 chs. and 25 links to the beginning.

July 16th, 1820.

JAMES S. CONWAY,
D. Surveyor.

581 GENERAL LAND-OFFICE, *6th December*, 1855.

I, Thomas A. Hendricks, Commissioner of the General Land-Office, do hereby certify that the foregoing, on page one (1) of this sheet, is truly copied from a paper filed in this Office on the 22nd of October last by H. M. Rector.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[L. S.] THOS. A. HENDRICKS,
Commissioner.

This is the paper marked "A,' referred to in the annexed affidavit of Lorenzo Gibson and George A. Warthen.

J. A. HUCHINGS, *J. P.*

Hot spring' case. Copy of Conway's survey, so called.

582 STATE OF ARKANSAS,
County of Pulaski:

I, James A. Huchings, an acting justice of the peace for the county of Pulaski, do hereby certify and make known that the foregoing deposition of Lorenzo Gibson was taken before me on the 21st day of January, 1856, at the law-office of Messrs. Watkins and Gallagher, in the city of Little Rock, and that the foregoing deposition of George A. Warthen was taken before me on the 22nd day of January, 1856, at the said law-office of Messrs. Watkins and Gallagher, in the city of Little Rock, and that said depositions were sworn to and subscribed in my presence at the times and places aforesaid.

In witness whereof I have hereunto set my hand, at the city of Little Rock, within the county of Pulaski and State of Arkan's, this 22nd Janu'y, 1856.

JAMES A. HUCHINGS, *J. P.*

583 STATE OF ARKANSAS,
County of Pulaski:

I, Garden N. Peay, clerk of the circuit court of Pulaski County, do hereby certify that James A. Huchings, whose official signature appears as above and to the annexed and foregoing certificate, was, at the time of affixing his said signature, a duly elected, commissioned, qualified, and acting justice of the peace in and for the county of Pulaski, State of Arkansas.

In testimony whereof I have hereunto set my hand and affixed my official seal, at my office, in the city of Little Rock, county and State aforesaid, this the 23rd day of January, A. D. eighteen hundred and fifty-six.

GARDEN N. PEAY, *Clerk.*

GAINES ET ALS. *ads.* HALE.

584 MEM.—For Exhibit F to the answer of defendants in this case, refer to the document marked "Exhibit D," to their answer to the bill of H. M. Rector, and for the papers therein mentioned as being filed before the district land-officers and marked "A, A No. 1, B No. 1, C No. 1," refer to the annexed and foregoing documents marked "Exhibit D and E," to the answer in this case.

(Endorsement:) Gaines et als., ads. Hale. Filed Aug 20th, A. D. 1860. Francis M. Henry, clerk.

Ex. X.—*Proclamation of the President of the United States, May* 16, 1839. (*Supreme C. R., printed page* 314.)

By the President of the United States:

In pursuance of law I, Martin Van Buren, President of the
585 United States of America, do hereby declare and make known, that public sales will be held at the under-mentioned land-offices in the State of Arkansas, at the periods hereinafter designated, to wit:

At the land-office at Washington, on Monday, the nineteenth day of August next, for the disposal of the public lands within the limits of the under-mentioned townships and fractional townships, to wit: South of the base-line and west of the meridian, township two, except the following tracts reserved for the Hot Springs, to wit, the south halves of sections twenty-eight and twenty-nine, and sections thirty-two and thirty-three, of range nineteen; fractional township thirteen, north of Red River, of range twenty-seven; township twelve, of range twenty-nine; township ten, of thirty; fractional township thirteen, north of Red River, of range thirty-two; fractional township eight and fractional township thirteen north of Red River, of range thirty-three.

At the land-office at Johnson court-house, on Monday, the
586 twenty-sixth day of August next, for the disposal of the public lands within the limits of the under-mentioned township and fractional township, to wit: North of the base-line and west of the meridian, township nine, of range twenty-two; the fractions in township seven lying north of the Arkansas River and east and west of the Cherokee reservation, of range twenty-one.

At the land-office of Fayetteville, on Monday, the 2nd day of September next, for the disposal of the public lands within the limits of township nineteen north of the base line, of range eighteen west of *of* the meridian. Lands appropriated by law for the use of schools, also lands reserved for military or other purposes will be excluded from sale.

Each sale will be kept open for two weeks (unless the lands are sooner disposed of) and no longer, and no private entries of land in the township so offered, will be admitted until after the expiration of the two weeks.

587 Given under my hand at the city of Washington, this sixteenth day of May, anno Domini, 1839.

M. VAN BUREN.

By the President:

JAMES WHITCOMB,
Commissioner of the General Land-Office.

Notice to pre-emption claimants.—(*S. C. R., printed page* 314.)

Every person claiming the right of pre-emption to any of the lands designated in the above proclamation is requested to prove the same to the satisfaction of the register and receiver of the proper land-office and make payment therefor as soon as practicable after seeing this notice, in order that the claim may be adjudicated by those officers agreeably to law, in due time prior to the day appointed for the commencement of the public sale, and all claims not duly made known, and paid for, prior to the date aforesaid are declared by law to be forfeited.

JAMES WHITCOMB,
Commissioner of the General Land-Office.

588 Mr. Assistant Attorney-General Goforth, offers, as against these claimants, Exhibit E, in the original petition of Wm. H. Gaines et al., No. 6208, filed in the Court of Claims, a copy of which forms part of this record. (See page 127 of this record.)

E.

(Endorsed on the back as follows:) A. H. Lawrence, Hot Springs case.

It seems to me that it would be proper, in accordance with precedent, to instruct the register and receiver to admit Belding's heirs to make the usual entry on their claim, upon the usual terms, etc., said entry to be and remain subject to all the same power of revision and control by the General Land-Office or Department of the Interior as may be exercised in any case of entries admitted in the ordinary course of business by registers and receivers.

The Government will thus still hold the ultimate power of protecting its own rights, while it merely places Belding's heirs in a position to contest the adverse claims of others, holding entries on the same land.

J. J. C.

589 E.

(The foregoing application by A. H. Lawrence seems to have accompanied the following letter:)

WASHINGTON, D. C., *Oct. 14th*, 1851.

J. BUTTERFIELD, Esq.,
Commissioner of the General Land-Office:

SIR: The Secretary of the Interior having decided adversely to the several claims to the hot springs, on the ground that the act of 20th April, 1832, remains still in force, I have the honor to ask that an entry may be permitted in the name of the heirs of Ludovicus Belding, in order that they may be placed in a proper position for the assertion of their rights hereafter in the courts. Of course, under the decision of the Secretary, I should not ask for a patent.

I am, very respectfully, your obedient servant,

A. H. LAWRENCE,
Attorney for the heirs of L. Belding.

590 United States Court of Claims.

THE HOT SPRINGS OF ARKANSAS CASES.

JOHN C. HALE
vs.
THE UNITED STATES.
HENRY M. RECTOR
vs.
THE UNITED STATES.
McKAY & GITT
vs.
THE UNITED STATES.
JOHN H. RUSSELL
vs.
THE UNITED STATES.
GAINES & OTHERS
vs.
THE UNITED STATES.

Filed March 29, 1875.

NOTT, J., delivered the opinion of the court:

These five actions are suits in equity, brought under the act in relation

to the Hot Springs, 11th June, 1870, (16 Stat. L., p. 149,) to determine the conflicting claims of the parties-claimant and of the United States as defendants to the Hot Springs of Arkansas. As each of the suits was adverse to the others, the parties seeking to recover the same property by different and conflicting titles, the court, pursuant to an authority expressly vested in it by the act, consolidated the suits, to the end that the conflicting rights of the claimants, both as against each other and the United States, may be settled by single decree.

The property which is the subject of dispute is, as has been said, the Hot Springs of Arkansas, but the suits of the parties are not all directed to precisely the same tract of land. Some of the parties seek to recover a square tract of two hundred arpents, whereof the hot springs form the center, and others seek to recover a single quarter-section, as laid down on the public surveys. But a corner of the quarter-section overlaps and includes a portion of the two hundred arpents, and the hot springs, which constitute the real value of the property, lie within the overlapping corner. It is to be understood that if the title of one of the parties to the quarter-section is valid, the others may still be entitled to the remainder of the two hundred arpents, and conversely that, if another has the better title to the whole of the two hundred arpents, the former may still be entitled to the remainder of the quarter-section; but inasmuch as the right to the hot springs is the only subject of dispute, we will, for convenience and brevity, speak of them as though they constituted the exclusive ground of controversy.

Though there are five parties claimant before the court, nevertheless, so far as the defendants are concerned, there are but three adverse titles asserted, for three of the parties seek to recover upon the same title, and the superior equity of any one of them as against the others is a matter of indifference to the defendants. As all of these titles flow from the same source—the Government—it is evident that that one which is first in time will, if it be valid, extinguish the claims which come after it.

591 I. The first, known as the Percifull title, is founded on the pre-emption act, 12th April, 1814, (3 Stat. L., p. 121, § 5,) and the prior inhabitancy and cultivation of the tract by John Percifull. It is represented in this case by the claimant Hale.

II. The second, known as the Rector title, is founded on the New Madrid act, 17th February, 1815, (3 Stat. L., p. 211,) and the location of what was known as a New Madrid certificate by Samuel Hammond and Elias Rector in 1820. This title is represented, respectively, by the claimants, (1) Rector, (2) McKay & Gitt, and (3) Russell.

III. The third, known as the Belding title, is founded on the pre-emption act, 29th May, 1830, (4 Stat. L., p. 420,) and the actual possession and cultivation of the tract in that year and on that day by Ludovicus Belding. It is represented in this suit by the claimants Gaines et al.

Chronologically arranged, the principal conflicting acts of the parties (including those of the Government) which affect these titles appear in the following order:

In 1812 the Hot Springs of Arkansas, though in a remote and unsettled portion of the country, approachable only by a bridle-road or foot-path, were to all intents and purposes a summer health-resort. Invalids went there annually to the number of twenty or thirty, erected temporary shelter, popularly termed "camps," obtained the benefit of the waters during the summer, and returned to their homes with the autumn. The situation of the springs is in a deep ravine, surrounded by a barren

country, and in the tracts which are the subject of dispute there was not more than an acre and a half of ground susceptible of cultivation.

In 1813 John Percifull, as his representatives allege, built the first house at the springs. The fact of his occupancy is not so much disputed as its character, for it is claimed that he did not inhabit and cultivate within the true intent and meaning of the statute under which they claim. The principal point of the objection is that his residence was some miles distant from there, and that he came to the springs during the summer to sell supplies to the invalid visitors; that they presented him with their camps; that he raised a few vegetables to vend to them; and that he gradually acquired the buildings without any intent to inhabit and cultivate, as required by the statute under which their claims must be adjudged.

In 1814 Congress passed the pre-emption act, 12th April, 1814, (3 Stat. L., p. 121,) which provides "that every person and the legal representatives of every person who has actually inhabited and cultivated a tract of land," &c., "shall be entitled to the right of pre-emption in the purchase thereof."

In 1815 Congress passed the New Madrid act, 17th February, 1815, (3 Stat. L., p. 211,) by which it was provided that "persons whose lands have been materially injured by earthquakes shall be, and they are hereby, authorized to locate the like quantity of land on any of the public lands of the said Territory the sale of which is authorized by law." The act also provides for the ascertainment of this fact by the recorder of land-titles, for the issuance of a certificate by him entitling the holder to locate upon other public lands, for the location under this certificate, on the application of the claimant, by the principal deputy surveyor for the Territory, for a return of the plat and location to the recorder of land-titles, and for the issuance of a certificate, and then of another or final certificate of location by him to the party.

592 In 1816 Congress passed the act, 29th April, 1816, (3 Stat. L., p. 325,) creating a new office, subsequently known as that of surveyor-general.

In 1818 the Indian title to this part of the Territory was extinguished by the Quapaw treaty 24th August, (7 Stat. L., p. 176.)

In 1818 a New Madrid certificate, dated 26th November and numbered 467, was issued by the recorder for two hundred arpents of land, in favor of Francis Langlois, and delivered to Joseph Storey, as attorney and assignee. On the 29th November of the same year Francis Langlois, by Joseph Storey, released and assigned this certificate to Samuel Hammond, and he in turn assigned one-half interest therein to Elias Rector on the 19th February, 1819.

In 1819 Hammond & Rector filed their application, dated 27th January, 1819, under their New Madrid certificate, for the entry of two hundred arpents of land, "to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, and to include the hot springs." "The said springs to be as near to the center of the square as circumstances will admit."

In 1820 the Attorney-General and Secretary of the Treasury decided that locations of New Madrid warrants could only be made upon public lands which had been surveyed and offered for sale, and that the locations must conform to the sectional lines of the public surveys. Instructions to this effect were issued to the officers of the land-office.

In 1820 James S. Conway, deputy surveyor, returned and filed his survey No. 2903 and plot of the location of Hammond & Rector's warrant in the office of the surveyor-general at Saint Louis. The character

of this survey and the fact of this filing and of the approval thereof by the surveyor-general are contested by the other parties.

In 1822 Congress passed the act, 26th April, (3 Stat. L., p. 668,) providing that the location theretofore made of warrants "issued under the New Madrid act, if made in pursuance of that act in other respects, shall be perfected into grants in like manner as if they had conformed to the sectional or quarter-sectional lines of the public surveys." The act also provided that all such warrants "shall be located within one year after the passage of this act, in failing whereof the same shall be null and void." It was subsequently provided by the act 2d March, 1827, "that the location of lands heretofore made according to law" "shall be perfected into grants in the manner prescribed" by the New Madrid act, "any construction thereof to the contrary notwithstanding."

In 1829 Ludovicus Belding occupied a house and cultivated a small plot of land as a garden at the hot springs. The house was owned by Percifull, and Belding entered it as his tenant. Other persons at the same time occupied other houses and resided at the springs. The fact of his occupancy and cultivation are hardly questioned, but the character and sufficiency is a matter in dispute. He continued to occupy and cultivate until after the 29th of May, 1830.

In 1830 Congress passed the act 29th May, (4 Stat. L., p. 420.) It provides that "every settler or occupant of the public lands prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year 1829, shall be, and he is hereby, authorized to enter with the register," &c., "a quarter-section." It also provides "that the right of pre-emption contemplated by this act" shall not "extend to any land which is reserved from sale by act of Congress," &c., "and that this act shall be and remain in force for one year from and after its passage."

In 1832 Congress passed the act 20th April, (4 Stat. L., p. 505,) which provides that the hot springs "shall be reserved for the
593 future disposal of the United States, and shall not be entered, located, or appropriated for any other purpose whatever."

In 1832 the same Congress passed the act 14th July (id., p. 603) providing that persons entitled to pre-emption under the act 1830, who had not made proof and entered the same within the time limited in that act, "in consequence of the public surveys not having been made and returned," &c., "shall be permitted to enter the said lands, on the same conditions in every respect as are prescribed in said act, within one year after the surveys are made."

The act was also further extended by the act 19th June, 1834, (4 Stat. L., p. 678,) and by the act 22d June, 1838, (5 Stat. L., p. 251.)

In 1838 the first public survey of or around the hot springs was made, [illegible]e plot thereof was certified on the 30th April, and the lands, except th[illegible] reserved, were subsequently offered for sale.

as [illegible] 1838, after the public survey, the widow of Percifull sought to
In [illegible] the quarter-section; but her application was refused by the regis-
enter[illegible] receiver of the land-office on the ground of a prior location made
ter and [illegible]or under the New Madrid warrant No. 467.
by Rect[illegible]9 the widow of Belding, after the survey, and before the lands
In 183[illegible]ed for sale, sought to enter the quarter-section under the act
were offer[illegible], 1830. The application was not finally acted upon until 1851,
29th Apri[illegible]ntry was allowed by the Secretary of the Interior, at the
when an e[illegible]st of the applicants, and for the special purpose of enabling
special requ[illegible]n a foothold in court to try the legal question then in dis-
them to obta[illegible]
pute.

In 1841 Congress passed the general pre-emption act 4th September, 1841, (5 Stat. L., p. 453.)

In 1843 Congress passed the act 1st March, 1843, (5 Stat. L., p. 603, § 3,) providing that "every settler of the public lands south of the Arkansas River shall be entitled to the same benefits accruing under the provisions of the pre-emption act of 1814 as though they had resided north of said river."

In 1843 the widow of Percifull again sought to enter the quarter-section, and tendered the purchase-money thereof, but her application was refused by the register and receiver.

In 1851 the register and receiver in Arkansas, pursuant to instructions from the General Land-Office, reported upon the claim of Belding's heirs, agreeing substantially on the facts, but differing in their conclusions; the former holding that Belding's possession was the possession of his landlord, and the latter that he had occupied and cultivated within the meaning of the act 29th May, 1830. The Secretary of the Interior, Mr. Stuart, after the land-office had rejected the claim, decided that it was proper and in accordance with precedent to permit the applicants to make an entry under the act, so as to place them in a position to test the adverse claims of others to the same land, the entry, nevertheless, to remain "subject to the same power of revision and control by the General Land-Office and this Department as may be lawfully exercised over any ordinary entry." Under this decision, the Belding heirs entered the land, paying the price thereof, and receiving the usual certificates, bearing date 19th December, 1851.

In 1860, June 7, the Secretary of the Interior, Mr. Thompson, decided that the entry authorized by his predecessor, Mr. Stuart, was contrary to law and should not have been allowed, and he directed that it be canceled.

In 1870 Congress passed the Hot Springs act, referring the controversy to this court.

594 For the purpose of showing the claims which the several parties present we have analyzed from their evidence the following:

Chains of title.

I.—IN HALE'S CASE.

THE UNITED STATES *to* JOHN PERCIFULL. } The pre-emption right under act 12th of April, 1814, (3 Stat. L., p. 121; § 5.)

Under this it is claimed that Percifull inhabited and cultivated p[illegible] h[illegible] pursuant to the terms of the statute, and that his possession has [illegible] been maintained till the present time; and that in 1838, after the lands [illegible]cluds had been surveyed and before they had been offered for sale, the [illegible]eirs of Percifull made proper application to pre-empt the quarter-sectio[illegible]n which is the subject of suit.

JOHN PERCIFULL *to* SARAH AND DAVID PERCIFULL. } By descent, in 1836.

By the death of John Percifull, in 1836, intestate, his [illegible]d & equity went to his widow, Sarah, and only child, David.

SARAH AND DAVID PERCIFULL *to* JOHN C. HALE AND MILUS WOODS. } Agreement and conveyance to John C. Hale and Milus Woods of half-interest, dated November 16, 1840.

This instrument purports to sell and convey undivided one-half part of the quarter-section to Hale and Woods. Woods is said to have sold his interest to Jacob Mitchell, and Mitchell to have sold to the claimant Rector, but this is only shown by parol evidence. A division of the land between Hale and Woods is shown by parol evidence, and that Mitchell (and after him Rector) had been in possession of Woods's portion, but no conveyance or sale by Woods is produced, nor is he nor his representatives made a party to this suit.

JOHN C. HALE *to* HENRY M. RECTOR. } Agreement, dated May 11, 1843.

This agreement conveys one-half of Hale's interest in the property acquired under the preceding conveyance to him and Woods, being one-eighth of the entirety. It is in consideration of Rector's conveying to Hale one-fourth of his interest under the New Madrid certificate; but it is claimed by Rector that certain other provisions of the agreement were never carried out and that it was subsequently abandoned, and that under the decisions of the supreme court of Arkansas a sealed agreement may be abandoned without formal instrument in writing to that effect being executed.

595 DAVID PERCIFULL AND ELIZABETH, HIS wife, *to* JOHN C. HALE. } Deed, dated January 10, 1848.

This instrument conveys all of David Percifull's remaining interest, being the one-half part of the quarter-section. His mother had previously died intestate, and consequently under this and the former conveyance of Sarah and David, Hale acquired three-fourths of the property; but he conveyed one-eighth to Rector, leaving in him five-eighths, of which he now claims to be the owner. One-eighth is supposed to be in Rector, and the remaining one-fourth of Woods's is not represented in the suit.

II.—IN RECTOR'S CASE.

THE UNITED STATES *to* FRANCIS LANGLOIS. } New Madrid certificate No. 467, dated Saint Louis, November 26, 1818, under the act of February 17, 1815, (3 Stat. L., p. 211.)

Langlois proved by Joseph Storey, his attorney and assignee, to the satisfaction of Frederick Bates, recorder of land-titles at Saint Louis, that a tract of 200 arpents, situated in Bayou Saint John, in the county of New Madrid, had been injured by earthquakes, and on the 26th November, 1818, the recorder issued his certificate No. 467, stating that Langlois or his legal representatives is entitled to locate 200 arpents on any of the public lands. Langlois at the same time, by Storey, his attorney, executed a release to the United States of his said injured tract on the Bayou Saint John.

FRANCIS LANGLOIS AND BARBARA, HIS wife, *to* JOSEPH STOREY.	Power of attorney, dated 10th November, 1818. Deed, dated 12th July, 1819. Consideration, $260.

Prior to the issuing of the New Madrid certificate, Langlois, "for good causes and considerations," executed his power of attorney irrevocable, and under seal, dated 10th November, 1818, to Joseph Storey, giving full power to him to locate the 200 arpents for his own proper use and that of his heirs and assigns, and with authority to relinquish and release the injured lands to the United States. Subsequently to the issue of the New Madrid certificate, he and his wife again executed to Storey their deed, dated 12th July, 1819, conveying the injured lands and all the privileges and advantages arising therefrom with a reference to the New Madrid act and with a covenant of warranty.

JOSEPH STOREY *to* SAMUEL HAMMOND.	Assignment New Madrid certificate No. 467, dated January 4, 1819. Consideration, $640.

By an indorsement on the original New Madrid certificate No. 467, bearing date January 4, 1818, but undoubtedly meaning 1819, Storey assigned and transferred, for himself and as attorney of Langlois, all his title, right, and interest in the certificate to Samuel Hammond, his heirs and assigns, and all benefits to be derived therefrom. Subsequently he executed a second assignment, bearing date the 24th
596 February, 1821, to Samuel Hammond and Elias Rector, conveying the same rights and interests.

SAMUEL HAMMOND AND ELIZA A., HIS WIFE, *to* ELIAS RECTOR.	Deed, dated February 19, 1819. Consideration, $600.

These grantors convey by a formal deed to Elias Rector one undivided moiety of the New Madrid certificate and of the rights and lands accruing or to accrue therefrom. The transfer of Hammond's remaining interest is not shown directly, but Rector, the present claimant, filed his bill in the circuit court of Arkansas for Hot Springs County against Langlois, Storey, and Hammond, and Eliza Hammond, and on the 2d March, 1853, obtained a decree requiring the defendants to convey all their interest in the lands and rights under the certificate to him, and the lands surveyed and selected thereunder. The defendants were served by publication; and, none of them appearing, the decree was obtained by default.

ELIAS M. RECTOR *to* HENRY M. RECTOR.	Will, dated August 9, 1822; proved August 30, 1822.

Elias Rector by will devised his real and personal estate to his wife for her life, with the remainder to his three children. At the time of his death these were of tender years. Two of them died in childhood, and the survivor, the claimant, on the death of his mother, succeeded to all of his father's rights and interests in the property.

HENRY M. RECTOR to JOHN C. HALE. } Agreement, dated 11th May, 1843.

This is the same agreement previously mentioned in Hale's case, whereby Hale conveys to Rector one undivided eighth part of the quarter-section, in consideration of Rector's conveying to him one undivided fourth part of his interest under the New Madrid certificate; but Rector, as before stated, insists on the abandonment of this agreement, and claims to be the only party in interest under the New Madrid certificate.

III.—MACKAY & GITT'S CASE.

FRANCIS LANGLOIS to JOSEPH MICHEL. } Deed, dated 27th July, 1805.

The claimants have set up in their petition, and offered in evidence on the trial, a deed from Langlois to Joseph Michel, executor in 1805, conveying to Michel 200 arpents of land on the river Gayoso; but the court finds that this was a distinct tract from the 200 arpents owned by Langlois on the Bayou Saint John, and excludes the deed from its consideration. The claimants also offered in evidence on the trial an agreement, dated April 8, 1805, between Langlois and Michel, whereby Langlois acknowledges the payment from Michel for his "improvements rights on Bayou Saint John, containing the quantity of 200 arpents," and binds himself to execute any further conveyance of the said pre-emption survey when called upon or requested so to do. Michel,
597 nevertheless, is to pay all the expenses and trouble in obtaining any confirmation before the board of commissioners of land-claims concerning the title to the said plantation. But this agreement not having been set up in the claimants' petition, the court likewise excludes it from its consideration. The claimants also read in evidence the will of Joseph Michel, and the various agreements or conveyances set up in their petition; but having failed to show any interest in Michel, the court likewise excludes all of such agreements or conveyances from its consideration.

IV.—RUSSELL'S CASE.

HENRY M. RECTOR to JOHN H. RUSSELL. } Deed, dated 5th March, 1867; consideration, $10,000.

This deed conveys and quitclaims all of Rector's right, interest, and title, of whatever character and description, in and to the 200 arpents of land located under certificate No. 467 and survey No. 2903 to John H. Russell, his heirs and assigns; but Russell, on the same day, executed to Rector the following conveyance:

JOHN H. RUSSELL to HENRY M. RECTOR. } Deed, dated 5th March, 1867; consideration, $5,000.

This deed recites the conveyance by Rector, and acknowledges that Rector has that day paid him $5,000, in consideration of which he con-

veys to Rector all the lands except one-half, as to which half they are to remain joint owners," provided that, within twenty days after the adjournment of the first session of the present Fortieth Congress, I shall have secured, and shall bring and produce to the said Rector, a confirmation, entire, full, and complete, by the Congress of the United States, of the title of said Francis Langlois; but that, in case I should fail to secure, and bring and produce, such confirmation of title by the said Congress as aforesaid, then I am to have no claim whatever in and to said land as named in certificate No. 467, and the said deed from said Rector to me of this date is to be null and void." The court finds, from extrinsic evidence, that these instruments were executed and exchanged at one and the same time, and were parts of one and the same transaction.

V.—GAINES'S CASE.

THE UNITED STATES *to* LUDOVICUS BELDING. } Pre-emption right under act 29th May, 1830, (4 Stat. L., p. 420.) Certificate of register and receiver of land-titles.

Under this it is claimed that Ludovicus Belding occupied ond cultivated, pursuant to the terms of the statute. Certificates of entry by the register and receiver of the land-office, and a receipt for the payment of $200 by the heirs of Belding in 1851, are produced.

LUDOVICUS BELDING *to* MARIA BELDING, (WIFE OF WILLIAM H. GAINES,) Albert Belding, Henry Belding, and George Belding. } By descent.

Ludovicus Belding died intestate, leaving his widow, Lydia Belding, and his children above named. The widow subsequently died
598 also intestate, and the children succeeded to the interest of herself and her deceased husband.

We now come to an examination of the facts upon which the several titles rest.

I. As to the title of John Percifull.

It rests exclusively upon the act 12th April, 1814, (12 Stat. L., p. 121, § 5;) his previous inhabitancy and cultivation and an alleged foothold upon the property maintained from that time to the present by himself, his tenants, his heirs, and their assignee. No entry has ever been allowed and no certificate has ever issued. The first attempt to enter or purchase under the act was in 1838, after the reservation act, April, 1832, had passed, but before the land had been offered for sale, though after public surveys had been made.

As against the Government the facts are these:

1. The widow of Percifull, in 1838, applied to enter and purchase the lands under the act of 1814, and filed her proofs to establish her right of pre-emption. On the 27th September, 1838, the receiver and register of the land-office in Arkansas rejected the application upon the ground that the land sought to be entered had been located by a "New Madrid certificate, No. 467, in the name of Francis Langlois."

2. In 1843 she again made application to enter and purchase the lands under the same act and filed further and additional proofs. She also made tender of $200 in gold coin, the amount of the purchase-money

of the quarter-section. This application was also rejected on the following grounds: first, that the land claimed was not ceded to the United States by the Quapaw Indians until 1818, and was not subject to pre-emption under the act 1814; second, that the land was reserved from entry or sale by the reservation act, April 20th, 1832; third, "that, admitting the validity of a settlement, the claimant, in her proof herein, has failed to make out her case under the act 12th April, 1814."

3. In 1850 the heirs or representatives of Percifull made further proof of their right to enter the lands. On the 10th February, 1851, the receiver decided that Percifull "did actually inhabit and cultivate the tract of land above described, on and prior to the 12th day of April, 1814," and "that his legal heirs or representatives are entitled to enter the same under the provisions of said pre-emption laws of 12th April, 1814, at the minimum price of $1.25 per acre." But the register on the same day decided "that John Percifull did not actually inhabit and cultivate the southwest quarter of section 33, in township 2 south, of range 19 west, prior to the passage of the act 12th April, 1814." These decisions were returned to the General Land-Office. On the 10th October following, the Secretary of the Interior decided that the right of entry was barred by the reservation act, 20th April, 1832, and therefore that the claim preferred was without legality.

4. By these proofs it appears that John Percifull in fact resided, in 1814, on the Wachita, seven miles distant from the hot springs, where he owned a house and cultivated a farm, which was also a part of the public domain, but that he had erected a house and cultivated a garden at the springs, doing business there in summer during the season of visitors, and returning to his home in the autumn. It also appears that the house or houses which he owned at the springs, he leased from time to time to various parties till 1833, after which he resumed possession. His inhabitancy at the springs in 1814 does not appear to have been exclusive, but to have been shared by the visitors who came from
599 year to year for the purpose of using the waters; neither does he appear to have been the first settler, nor to have inhabited and cultivated until the place had become a summer resort for invalids.

Upon these facts the claimant is understood to contend that the act 1st March, 1843, (5 Stat. L., p. 603, § 3,) removed all objections to his entry, and that under the Hot Springs act 1870, (16 Stat. L., p. 149,) this court is invested with equitable power to take the place of the land-office, and complete the proceedings which constitute a sale.

II.—Of the title of Elias Rector.

This title rests entirely upon the New Madrid certificate in favor of Francis Langlois and the survey of James S. Conway, deputy surveyor, returned to the surveyor-general's office, at Saint Louis, in 1820.

As against the Government the facts are these:

1. On the 26th November, 1818, the recorder of land-titles at Saint Louis, upon what he deemed sufficient proof, issued a certificate, No. 467, in favor of "Francis Langlois, or his legal representatives," entitling them "to locate 200 arpents of land on any of the public lands of the Territory of Missouri, the sale of which is authorized by law." This certificate was issued or delivered to Joseph Storey, the attorney and assignee of Langlois. The Government has filed no bill to set this certificate aside as erroneously issued or fraudulently obtained; therefore, we are not at liberty to go behind it, and must hold that it was rightfully issued and upon sufficient proof.

2. On the 17th January, 1819, Samuel Hammond and Elias Rector, to whom the certificate had been assigned by Storey, applied as repre-

sentatives of Langlois, in writing to the surveyor-general for the Territory of Missouri "for the entry and donation of 200 arpents of land to satisfy the said certificate, to be surveyed in a square tract, the lines of which to be corresponding with the cardinal points, and to include the hot springs, so called, upon the waters of the Washita River, south of the river Arkansas, the said springs to be as near the center of the square as circumstances will admit." The surveyor-general accordingly ordered the survey to be made. This order is apparently not of record in the office, and is shown only by parol evidence. It was directed to Jamee S. Conway, deputy surveyor.

3. On the 16th July, 1820, the deputy surveyor returned his survey with a plat made out in triplicate to the surveyor-general, by whom it was approved and filed. The copy filed in the surveyor-general's office is not found of record, and the fact that such a paper ever became a part of the records of the office is questioned. We have considered the objections raised by the adverse parties and acknowledge their weight, but it appears to us a conclusive fact that this survey of the deputy surveyor was numbered by him 2903, and that on the official "List of certificates issued by the recorder of land-titles under the act of Congress of the 17th of February, 1815," transmitted by the land-office at Saint Louis to the land-office at Little Rock, when the latter was established, there appears "survey 2903" opposite "New Madrid certificate 467, for 200 arpents of land issued to Francis Langlois;" and this is further strengthened by documents from the Interior Department, where the same numbered survey also appears opposite the same New Madrid certificate. These official recognitions, taken in connection with the positive and circumstantial evidence offered by the claimant, places above all doubt the fact that the survey was filed. Consequently, neither of the original triplicates not filed should be rejected as secondary
600 evidence. The approval of the surveyor-general is shown only by parol and circumstantial evidence, and is not a matter of record.

4. About the time this survey was returned to the surveyor general's office instructions were received by him from the Secretary of the Treasury which prevented him from returning a plat of the location to the recorder of land-titles, as required by the second section of the New Madrid act, 17th February, 1815. It is conceded by the claimant that no steps were taken on the part of Hammond and Rector to compel the surveyor-general to return a plat of the location to the recorder, and that no further steps to complete the title were taken by them or their representatives until 1838, when the heirs of Rector applied for a certificate and patent.

The objections of the officers of the land-office to the right of Rector to complete his title have been, first, that these lands were not surveyed and offered for sale, and hence that the sale thereof in 1820 was not authorized by law; second, that the location of a New Madrid certificate must conform to the lines of the public surveys, and that it could only include quarter and half quarter-sections to an extent not exceeding six hundred and forty acres, and consequently that Hammond and Rector could not locate absolutely two hundred arpents of land; third, that the location being illegal and defective, and not completed before the act 26th April, 1822, (3 Stat. L., p. 668,) was not helped by the first section of that act, and is barred by the second; fourth, that the sale not having been complete and valid, the land is reserved by the reservation act, 20th April, 1832.

Upon these facts the claimant is understood to contend that the

return by the deputy surveyor of his survey and location, and the approval thereof by the surveyor-general, made the location complete; that the duty of returning a plat to the recorder of land-titles devolved exclusively upon the surveyor-general, and his neglect or refusal so to do could not defeat the party's rights under the act 26th April, 1822; and that the location thus made, being in contemplation of law complete, should be perfected into a grant in like manner as if it had conformed to the sectional lines of the public surveys.

III.—Of the title of Ludovicus Belding.

This title rests upon the act 29th May, 1830, (4 Stat. L., p. 420,) and upon the actual possession of a house at the Hot Springs on that day, and the cultivation of a part of the quarter-section during the year 1829, by Ludovicus Belding. An entry is also relied upon which was allowed by the Secretary of the Interior in 1851.

As against the Government, the facts are these:

1. In 1839 the heirs of Belding applied for leave to enter the land, and offered proofs and showed a right of pre-emption under the act 29th May, 1830, (4 Stat. L., p. 420.) No immediate decision was rendered on this application, but on the 23d October, 1850, the General Land-Office instructed the land-office in Arkansas to have a rehearing of the claim. Upon this rehearing the receiver, on the 13th February, 1851, decided that Belding "was in possession of the hot springs on the 29th May, 1830, not in his own right, however, but as tenant under and by virtue of a lease from John Percifull, who, it is shown, claimed said springs and had possession of them;" and that Belding cultivated "a portion of the land embraced in the quarter-section on which the hot springs are situated, but that he only acquired the right to cultivate said land by means of said lease from John Percifull to him;" and that "all the im-
601 provements which said Belding put on said quarter-section during the time he held possession were made in accordance with an express agreement between him and Percifull that he should do so, and on the consideration of which Percifull leased the springs to him; and that said improvements were made for the use and benefit of said Percifull, and not Belding;" and that "the purchase of the Miller cabins was made by Belding for the use and benefit of John Percifull, and not for his own use and benefit, nor longer than for the term of his said lease;" and that "the heirs and legal representatives of said Ludovicus Belding, deceased, are not entitled to enter said land by pre-emption under the provisions of the act approved 29th May, 1830." On the 22d March, 1851, the register decided that "it was clearly proven that the said Ludovicus Belding did cultivate said southwest quarter of section 33, in township 2 south, of range 19 west, in the year 1829, and that he had possession of the same on the 29th May, 1830, as required by the first section of the pre-emption law approved 29th May, 1830." The Commissioner of the General Land-Office, on the 26th August, 1851, decided that Percifull had no power to lease the public lands, and that the inhabitancy inured to the benefit of Belding, but he reserved a final decision upon the application. On the 21st November, 1851, the Secretary of the Interior, Mr. Stuart, on appeal from the Commissioner of the General Land-Office, decided that it would be "proper and in accordance with precedent" to permit the heirs of Belding to make an entry under the acts of 29th May, 1830, and 14th July, 1832, as requested by them, which request stated that such entry should be, "in order that they may be placed in a proper position for the assertion of their rights hereafter in the courts," and declared that they should not ask for a patent. The Secretary of the Interior further said in his decision, "said entry will

remain subject to the same power of revocation and control by the General Land-Office and this Department as may be lawfully exercised over any ordinary entry. The Government will still hold the power of protecting its own rights, while the claimants will simply be placed in a position to contest the adverse claims of others to the same land." Under and in pursuance of this decision the register and receiver of the land-office in Arkansas entered the land in favor of the heirs of Belding, and issued the usual certificates, and they accepted and received from them the sum of $200 purchase-money, which is still retained by the Government.

On the 7th June, 1860, the Secretary of the Interior, Mr. Thompson, decided that the entry allowed by his predecessor, Mr. Stuart, in favor of Belding's heirs, was forbidden by the reservation act 20th April, 1832, and he directed that the certificate be canceled and annulled. No further or formal cancellation was ever made, nor was the purchase-money ever refunded to the pre-emptors.

The objections of the officers of the Land-Office to this title are believed to rest exclusively upon the reservation act, with the exception of the first decision of the receiver, who held that his occupancy was in fact an occupancy for his lessor, Percifull.

Upon these facts the claimants are understood to contend that Belding acquired a right to pre-empt under the act 29th May, 1830, which was revived and restored to him by the act 14th July, 1832, notwithstanding the reservation act 20th April, 1832. It is also understood that they contend that the reasons assigned by the Secretary of the Interior in 1851 for allowing their entry cannot be considered as legal conditions affecting its validity, and that the subsequent revocation by a succeeding Secretary in 1860 was void.

Before proceeding to the consideration of the respective cases it may be desirable to inquire as to the authority and limitations under and within which this court must act.

602 The alienation of the public lands has always been exclusively confided to the officials of the Land-Office. Upon well-understood principles a power confided to a special tribunal can neither be reviewed, nor enforced, nor reversed by courts of law or equity. As between the Government and those seeking to become purchasers or grantees, the final action of the Land-Office has always been regarded as final by the judiciary. Its decisions, whether rightful or wrongful, have never been reviewed, either to enforce a sale by mandamus, or prevent it by injunction. But as these decisions have necessarily lacked many of the satisfying elements which are the essentials of a judicial judgment, the courts of the United States have devised and established two collateral principles in furtherance of the maintenance of legal rights. The first of these is that when a pre-emption purchaser has paid his money and received from the officials of the local land-office his certificate of pre-emption, he thereby acquires an equitable estate, hereditable, divisible, assignable. The legal estate remains in the Government until the patent issues, but the property becomes severed from the public domain. After such property becomes so severed, notwithstanding that the legal title remains in the Government, it is no longer the property of the United States, nor subject to a reservation by Congress. Though not conveyed, it is nevertheless sold. The second of these principles is that, although the action of the Land-Office is conclusive as between the Government and the purchaser, it does not affect the rights of third persons. Thus, though the purchaser has been decreed by the Land-Office to be entitled to the property, and has been invested with the legal as well

as the equitable title thereof by patent, yet nevertheless, in contemplation of the judiciary, he takes only as trustee for the rightful owner—that is to say, for a more rightful purchaser. Thus collaterally the action of the Land-Office may be reviewed as between two parties asserting conflicting rights, provided always that the property has been severed from the public domain.

In 1870 the Hot Springs of Arkansas had been the subject of legal contention for thirty years, and every conceivable method which professional ingenuity could devise had been resorted to to obtain, directly or indirectly, the adjudication of a court upon the rights of the parties. No one had received a patent or pretended to have acquired the legal title, but each had again and again insisted that he was the equitable owner of the property. At the same time the interposition of Congress had been invoked for a confirmation of one or the other of the titles. With such precedent facts existing Congress passed the "Act in relation to the Hot Springs reservation in Arkansas," 11th June, 1870, (16 Stat. L., p. 149.) It provides that "any person claiming title, either legal or equitable," may institute in this court "any suit that may be necessary to settle the same;" that such suits "shall be conducted and determined according to the rules and principles of equity practice and jurisprudence in the other courts of the United States;" that this court shall be "invested with the jurisdiction and powers exercised by courts of equity so far as may be necessary to give full relief;" that separate suits, asserting conflicting rights, "shall be consolidated and tried together," the court being directed to "determine the question of title" and to grant "all proper relief as between the respective claimants, as well as between each of them and the United States;" that if the final decision of the court be in favor of the defendants, the court "shall order such lands into the possession of a receiver," and, if its decision be in favor of a claimant, it shall "proceed by proper process to put such successful claimant in possession," and that upon the filing of
603 its decree with the Secretary of the Interior "he shall cause a patent to be issued to the party in whose favor such decree shall be rendered." We do not understand this statute to cede any interest of the United States, or to confer on others any right, legal or equitable. The equity to which it alludes is not a natural or moral equity, to be measured by the discretion of this court, but simply that equity which springs from the possession of a legal right. The case contemplated by the statute is that of a man in possession of lands under a contract of sale, but who has not received a deed from the vendor. He goes into a court of equity to obtain a decree for specific performance. If it be found that he is the equitable owner the court compels the execution and delivery of the deed; if it be found that his contract of sale is invalid the defendant obtains a decree, and, in this case, is to have restored the possession. There is nothing in the act which substitutes this court in the stead of the officers of the Land-Office to perform any duty which they may have left undone, neither is there in the act anything which, as against the Government, authorizes the court to review their proceedings and say that they were wrong. After the court has reached the point of determining that the equitable title has passed to one or the other of the claimants, then, indeed, it becomes its duty to decree specific performance against the Government, or to go behind the action of the Land-Office and ascertain which of the parties is the rightful purchaser. But until that point is reached it is possessed of no more power, aside from jurisdiction, than any other court of the United States. In other words, the act is strictly remedial and jurisdictional, and its char-

acteristic essentials are, first, that it confers jurisdiction as against the Government; and, second, that it enables all of the contending parties to have their conflicts settled by a single decree.

The first pre-emption title, that of John Percifull, is founded, not so much upon what the officials of the Land Office have done as upon what they have left undone. It is claimed that on the one hand he has done everything which the law required should be done to vest in him the right of acquiring title, and on the other hand that the officers of the Government have evaded the obligations imposed upon them by law, and have erroneously refused to confer upon him the evidence of his legal rights. Waiving the question of jurisdiction, let us inquire how far this assumption of title can be sustained.

It has been the settled land-policy of the Government, so far as titles acquired by purchase and sale are involved, that the public lands should be first surveyed upon a strict mathematical system of ranges and sections which is founded upon astronomical observations, and almost entirely disregards the irregular formations of natural boundaries. It has also been its policy that the public lands shall not be sold until, after being thus surveyed, they have been publicly offered for sale. Besides this strictly legal policy which contemplated a survey and public offering to sell, and a sale, there has been a parallel policy founded upon license and usage rather than upon express provisions of law. This policy has permitted the settler to go upon the public lands at any time, to occupy and to cultivate, but to do so at his own risk. On the one hand he acquired no rights whatever; on the other he was not prosecuted for trespass. As these settlers have pushed out beyond the region of surveyed lands and beyond the confines of civilization, founding homes where they were legally trespassers, the legislative power from time to time has come to their aid by passing what are generally known as pre-emption acts. These pre-emption acts, however, conferred no vested rights, for the power of refusal to sell still rested in the Government, and pre-emption meant nothing more than the right to buy should the Govervent elect to sell; the
604 privilege of pre-emption going merely to the exclusion of all the world as competing purchasers. If the Government should never elect to sell, the settler would be no better than though the pre emption act had never passed. But in course of time the lands would be surveyed and offered for sale, and then, if no governmental reservation intervened, the occupant would become the first and exclusive purchaser. It was inevitable that this should be the policy of the Government if it was to retain any control over its own lands; for it was not omnipresent, and, until the public surveys were made, could possess no specific knowledge of the lands which it should retain. If mere settlement before survey constituted a sale, it was inevitable that the public lands would be alienated at the will of any individual who chose in this manner to become a purchaser. The pioneer, by going on the unsurveyed lands, obtained the benefit of an option as against other men, but he also ran the risk of never acquiring title for himself. The Government forebore to hold him in damages for his trespass, and he placed himself without remedy against the Government for his imprudence. The public survey, therefore, was necessary to inform the Government whether it would sell or not, and until this public survey was made and the discretion of the Government to sell exercised, the officials of the Land-Office were without authority to confer rights upon purchasers, and acted in the strict line of their duty when they refused to allow entries upon such lands to be made.

It has also become a settled principle with our courts that lands which

have been offered for sale may be reserved from sale by Congress at any time before sale is made. When the officers of the Land-Office have issued their certificates and received the purchaser's money, the land is severed from the public domain. Thereafter, if the sale was legal, neither Congress nor the Executive has power to undo what their agents have done. But until then the right of reservation is complete. It may work individual injustice, but it is a power which cannot be questioned. The case is that of a man whose agents, duly authorized to sell his lands, offer them for sale, and hold out inducements and give assurances. But so long as they enter into no binding contract, the would-be purchaser acquires no rights in the land and the owner may withdraw it from the market at his pleasure. Under the pre-emption act, 1814, the agents of the Government were never authorized to sell this property. Before such authority was given, the owner decided that it should not be sold. Percifull, therefore, never bought. He at best only placed himself in a position where he might buy if the Government ever decided to sell. His expectations never reached the result of a valid contract, and his representatives possess no title, legal or equitable.

In this case much has been said about the natural equity which Percifull acquired, and about the intent of Congress, through the Hot Springs act of 1870, to give legal effect to this equity. So far as the statute is concerned, it is not perceived, as between these contending parties, the claimants, and the Government in the character of defendant, that it confers a single interest or waives a single right. At the very threshold of the statute it is announced "that any person claiming title, either legal or equitable, to the whole or any part of the four sections of land constituting what is known as the Hot Springs reservation, &c., may institute against the United States in the Court of Claims, and prosecute to final decision, any suit that may be necessary to settle the same." This provision is conditional upon our jurisdiction. The party must claim "title," which may be "either legal or equitable," and the
605 suit must be one "necessary to settle the same." If it is not a "title," "legal or equitable," the court is without jurisdiction to entertain his suit. The statute is strictly remedial. It gives a remedy for the assertion of a right, but it makes no grant on the part of the Government, and waives no right which the United States as defendants possess.

But, aside from this construction of the statute, which as a matter of law may or may not be right, we are unable to perceive as a matter of fact that this claimant possesses any natural or moral equity which in any event would entitle him to the assistance of a court of equity. The pre-emption act, which is the foundation of the supposed right, was in favor of one who at the time of its passage had "actually inhabited and cultivated a tract of land." At the time when he is asserted to have acquired his right of pre-emption John Percifull actually inhabited and cultivated another tract of land. He came to the Hot Springs to carry on a business there, precisely as hucksters go to our fashionable summer-resorts to carry on their business during the season. When he first inhabited the springs they were already inhabited by invalids, who came there for the restoration of health. His occupancy was as transitory as theirs, save that a constantly-recurring business brought him back from season to season. The policy of the Government was in aid of those who went out into the wilderness to subdue it, and to make ordinary homes and to pursue ordinary avocations. It was a general policy, designed for general purposes, for those who actually inhabited and cultivated, and not where the cultivation and the inhabitancy were both

nominal, or at best technical. The laws upon this subject have always contemplated a general policy, and have never been designed to favor those whom chance or sagacity led to some exceptional spot. There could be no general policy designed to cover exceptional cases. The hot springs were as exceptional as the salt springs and lead mines excepted by the act 1807; and if through the ignorance and heedlessness of legislation the terms of such general reservations were not accurate enough to cover the hot springs, it is a technical defect in the statute, which does not create an equity in the claimant.

The second pre-emption title, that of Ludovicus Belding, is also without those merits which would commend it to a court of equity. Its supposed merits have been pressed upon the court with unusual ability and zeal, and we do not doubt that long contemplation of the pre-emption laws, and the sight of other men acquiring by their machinery a title to other property, and the protracted contest and enormous outlay which have gone on in the way of litigation have brought both counsel and parties to the sincere conclusion that their case is a hard one, which must awaken sympathy if not procure redress. But while the claim of Percifull has some of the attributes of a first settler, the title of Belding has nothing whatever to awaken sympathy. He entered upon the property after it had become a well-known resort in Arkansas, as well known as Saratoga was in New York, or the Sulphur Springs in Virginia. A small village shared the occupancy with him, and his business was selling groceries to those who were as much first settlers as himself. His occupancy was not in his own right, for he held in the simple character of tenant, acknowledging the rights of his landlord, who was John Percifull; and, from the time he entered until the time he vacated, claiming nothing more. He declared by a written instrument his obligation "to deliver all and every part of the buildings and improvements at said hot springs, that I have or ever had, unto John Percifull, if he demands the same;" and I have no pretension to the improvement of said springs except under the
606 claim of the said John Percifull." His occupancy and cultivation in the year 1829, and his possession on the 29th May, 1830, were an accident of time, for he vacated the premises soon after the act took effect. In his life-time he certainly never supposed that he could assert a right to this property. After his death it would seem as though some one had taken the statute in one hand and had run down the list of occupants with the other until he found a resident who could nominally comply with the conditions of the act. What is asserted, therefore, on behalf of his heirs is not an equity, but the stringent application of a legal technicality, which is this:

The act 29th May, 1830, under which the Belding heirs claim, provided "that every settler or occupant upon the public lands prior to the passage of this act, who is now in possession and cultivated any part thereof in the year 1829, shall be, and he is hereby, authorized to enter," &c., "any number of acres not more than 160;" "provided, however, that no entry or sale of land shall be made under the provisions of this act which shall have been reserved for the use of the United States," &c. At that time the hot springs had not been reserved; and if Belding were an occupant and cultivator and possessor within the intent of the act, and if the lands had been surveyed, he would have been entitled, apart from the prior rights of others, to pre-empt this quarter-section. But the statute further provided "that this act shall be and remain in force for one year from and after its passage." During that year Belding made no entry, and under that act his right expired.

But another act reviving the right was passed. Congress, however, in the mean while, had passed the reservation act, 20th April, 1832, which in express terms provided that the hot springs "shall be reserved for the future disposal of the United States, and shall not be entered, located, or appropriated for any other purpose whatever." The same Congress, then, on the 14th July following, passed the supplemental act providing that persons "entitled to a pre-emption according to the provisions of the act of 29th May, 1830," "and who have not been or should not be enabled to make proof and enter the same within the time limited in said act in consequence of the public surveys not having been made and returned," &c., "shall be permitted to enter the said lands, on the same conditions in every respect as are prescribed in said act, within one year after the surveys are made," &c. The Belding heirs complied with the conditions of this act. They entered or attempted the entry of the land within one year after the surveys were made, and they claimed, as they still claim, that this act took the hot springs out of the reservation act, and was a "disposal" of them within its meaning.

We cannot accept this construction of the statutes. If the three acts be in pari materia, and are to be read together, then, at the time that Belding's heirs sought to effect an entry, they would read as follows: That every settler on the public lands in 1829 shall now in 1838 have the right to enter, &c., provided that no entry shall be made upon lands which have been reserved for the use of the United States. Nor shall the right of pre-emption, contemplated by this act, extend to any land which is reserved from sale by act of Congress, (act 29th May, 1830, § 4,) and provided further that the Hot Springs shall be so reserved. The rules for the construction of statutes have been applied to this case, with great ingenuity and considerable effect, to show that the third statute was a "disposal" within the meaning of the second; but the controlling rule which must govern courts in the construction of statutes, and which is much more applicable to statutes as carelessly drawn as those of the United States, is, that they shall be construed according to the true intent and will of the legislative power. As has been said, the same Congress passed the two acts. The first reserved the hot springs "for the future disposal of the United States," and expressly forbade that they should be "entered, located, or appropriated for any other purpose whatever." The second, passed three months later, allowed certain persons to make proof who had not been able to make it within the time limited by the act of 1830. But when this Congress looked into the act of 1830 they saw that it was expressly written down upon that act that entries and sales were not to be allowed upon land reserved for the use of the United States, and that the right of "pre-emption contemplated by this act" should not extend "to any land which is reserved from sale by act of Congress." The supplemental act did not repeal the reservation act, in terms nor by implication. Can it be believed that the same Congress which passed both, intended through mere rules of construction to undo by implication what they had expressly done by statute, or to allow a settler who had acquired no legal rights whatever to perfect his title by means of the payment of $200 to that which had been deemed of so much importance as to be worthy of express statutory reservation? Unquestionably the same Congress never intended to reserve and to give away; to undo indirectly what it had just done directly. The act of revival must be applied to the original act as if the intervening statute had worked a vested right in favor of a third person, which is the Government in its corporate or proprietary as distinguished from its legislative character.

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As has already been shown, these claimants also predicated their title upon the entry allowed at their special request, and for a particular purpose, by Mr. Secretary Stuart. It is certain that while that entry may have given a technical legal right, it imparted no equity to the case of these claimants. Obtaining it through the express declaration that it should not be used against the Government, and then seeking thus to use it on the technical ground that the representatives of the parties and the purpose of the Secretary cannot control his action, is not a foundation on which to place an appeal to the favorable consideration of a court of equity. It may be questionable whether the Government would not have had a right to file a cross-bill for the purpose of setting aside the entry as fraudulently obtained, but we may lay that question aside under the construction we have given to the statute. The entry was illegal because the Secretary was forbidden to allow it. The reservation act bound him and the parties equally, and they could take nothing by his violation of the statute. Our conclusion is that these claimants have no title, either legal or equitable.

The last title, that of Elias Rector, rests upon the construction of a single statute, which is the New Madrid act, (3 Stat. L., p. 211, § 1.) A pre-emption title is founded upon purchase and sale, but a New Madrid title is founded upon an exchange of lands. The purpose of the law was to allow persons in a certain district to give their injured lands as the sole consideration for others which they were authorized to select. When the selection, termed a location, was complete "according to the provisions of this act," the title of the party in the injured land was to "revert to and become absolutely vested in the United States;" conversely, when the location was complete, according to the provisions of the act, the land selected was severed from the public domain and became the property of the locator. If in the case of Rector a location was made in 1820, then its alleged defects were cured by the first section of the act 26th April, 1822, (3 Stat. L., p. 668,) and it should "be perfected into a grant." If no location was made, then the New Madrid warrant is barred by the second section of the same statute. The
608 act 2d March, 1827, (4 Stat. L., p. 219,) is to the same effect, except that it does not contain a statute of limitations, but it helps only "locations of lands heretofore made according to law," and leaves the limitation of the preceding act as to New Madrid warrants unrepealed. What, then, was a location under the New Madrid act?

The act requires that after the New Madrid warrant or certificate of destroyed lands has been issued, "and after a location thereof has been made, on the application of the claimant, by the principal deputy surveyor for said Territory, or under his direction," it shall be the duty of this principal surveyor "to cause a survey thereof to be made, and to return a plat of each location made to the said recorder, to go with a notice in writing designating the tract or tracts thus located, and the name of the claimant on whose behalf the same shall be made, which notice and plat the said recorder shall cause to be recorded in his office, and shall receive from the claimants for his services on each claim the sum of $2 for receiving proof, issuing the certificate, and recording the plat and notice as aforesaid." (§ 2.) The recorder was then to deliver to the party a certificate stating the circumstances of the case, and that he was entitled to a patent for the tract designated; but this certificate was to be filed with the recorder within twelve months after its date, and the recorder was then to issue another certificate in favor of the party, which, on being transmitted to the Commissioner of the General Land Office, should entitle the party to a patent. In this case it will be recollected

that Hammond and Rector, the holders of the New Madrid certificate, applied for a location thereof to the surveyor-general for the Territory, and that he caused a survey to be made, which was returned to and approved by him and filed in the surveyor-general's office; but by reason of instructions then received from the Secretary of the Treasury, who was then the head of the Land-Office, the surveyor-general took no further steps in the matter, or, in other words, never returned a plat of the location to the recorder with the notice in writing designating the tract located and the name of the claimant on whose behalf it was made.

But between the New Madrid act of 1815 and the alleged location by Rector in 1820, the act 29th April, 1816, (3 Stat. L., p. 325,) intervened. It established a new office of surveyor of the public lands in Illinois and Missouri, afterwards termed the surveyor-general; it transferred to him all the duties of the "principal deputy-surveyor;" it directed that he should transmit plats of all lands surveyed to the register and to the General Land-Office; it provided that all plats of surveys belonging to any office theretofore established for the purpose of executing or recording surveys should be delivered to this surveyor; and it gave him power to certify plats of survey to be used as evidence in courts. This act, it is claimed, in effect transferred some of the powers of the recorder to the surveyor-general, and by necessary implication changed the relative duties of the two offices.

It has been argued with unusual learning and power that the location was complete when the survey was made, returned approved, and filed in the office where it was permanently to remain, and that thereby the title to the land injured by the earthquake reverted to and vested absolutely in the United States. We are not unmindful of any part of this cogent argument. We perceive that everything had been done by the parties which the law required them to do, and that everything which remained to be done was made a statutory duty on the part of the officers of the Government. We also perceive that by the surrender of the first certificate a party might suffer irreparable loss, and that he was without legal means to compel the surveyor-general to act by
609 transmitting the plat and notice to the recorder. We are also aware that the Supreme Court has enunciated the principle that things which the public officers ought to have done should be regarded as having been done. (Lytle vs. Arkansas, 9 How. R., 314.) But the Supreme Court has also declared that before the New Madrid or injured lands "shall revert to and become absolutely vested in the United States," the plat of the location and the notice in writing designating the tract located must be returned to the recorder of land-titles. The precise point presented by this case has, we believe, never been presented to the Supreme Court, but the declaration or construction to which we have alluded runs through six of the decisions of the court, beginning with 13 Peters and continuing to 19 Wallace. (Bagnell vs. Broderick, 13 Pet., 436; Barry vs. Gamble, 3 How., 32; Lessier vs. Price, 12 id., 57; Hale vs. Gaines, 22 id., 144; Rector vs. Ashby, 6 Wall., 143; McKay vs. Easton, 19 Wall., 619.) With that reiterated opinion of the Supreme Court before us, we do not feel at liberty to regard it as the mere dictum which might drop from a single case. While we do not feel satisfied with the construction which has been directly or indirectly given to the statute, and while we think the facts of this case will present a substantially new question to the Supreme Court, upon which it will not be bound by its former rulings in other and essentially different cases, yet still we do not feel at liberty to disregard what the

court of last resort has so repeatedly said, and deem it best to leave to that tribunal the duty of correcting its errors, if errors they be. We must therefore decide that no location was ever made by Hammond and Rector, and that their representatives have no title, legal or equitable.

A decree will be prepared by the counsel for the Government conformable to this opinion, which will be settled at chambers on five days' notice to the adverse parties.

LORING, J., dissenting.

The statement of facts by the court recognizes the fact that in Rector's case, on due application, under the statute, by Hammond and Rector, the survey and plat of the land were made by the surveyor-general, and that by his omission the plat and notice of location were not returned by him to the recorder's office, as the statute required.

And if there is to be applied to this case the rule laid down by the Supreme Court in Lytle vs. Arkansas, which is the established rule in equity law, under which, by the statute referring this case here, it has been heard, then I think that the case in 19 Wall., and the like previous cases cited in the opinion of the court, do not impugn Rector's title, but establish it.

The rule in equity enforced in Lytle vs. Arkansas, was that that which ought to have been done shall be taken as done.

The thing omitted here was the return of the plat and notice of location to the recorder's office by the surveyor-general. Had the return of the plat and notice of location been made by the surveyor-general, the location would have been complete, and the right of the locators to the land absolute, by all the authorities above referred to. And that is the result, if the rule in equity above referred to is applied, and that which the surveyor-general ought to have done is taken to have been done by him. And the fact is then found for the claimant here, for want of which the judgments were against the plaintiffs in the cases cited, and they all become authorities for Rector.

And I think that this case is stronger than that of Lytle vs. Arkansas; for, in that case, the act not done was taken as done against the
610 defendant, though the officer was not his agent, while here the officer was the agent of the United States, who are directly liable for his non feasance; for though the United States are not liable for the defaults of their officers, as defaults, they are liable for the non-performance of their own contracts. And the Supreme Court have decided that cases under the statute of 1815 are cases of contract. And in equity party to a contract is entitled to its specific performance against him who has failed to perform it, and I think Rector is so entitled here.

Order of the court as to the decree.

MARCH 29, 1875.

Ordered, That a decree be prepared by the counsel for the Government conformable to the opinion of the court, to be settled at chambers on five days' notice to the adverse parties.

By the court.

611 United States Court of Claims.

THE HOT SPRINGS CASES.

On the settlement of the decree.—Filed April 26, 1875.

NOTT, J., for the court:

The solicitude which the parties have evinced with regard to the appointment of a receiver and the effect of an appeal to the Supreme Court

renders it desirable that the court should express the conclusions which have been reached. They are these:

I. Ordering the property in litigation into the possession of a receiver is an essential part of the decree. The hot springs act expressly directs that "upon the final hearing," the court "shall order such lands into the possession of a receiver," if the decision be in favor of the United States. The case as contemplated by the statute is not simply one where the claimants seek relief and fail to obtain it, but is one in which the defendants succeeding are to have affirmative relief. This affirmative relief consists in being decreed the immediate restoration of possession in the lands through the instrumentality of an officer, termed a receiver. To omit this from the decree would be to refuse an affirmative decree in their favor. But the selection of the person who shall act as receiver is not necessarily a part of the decree. It does not affect in any way the rights of the parties litigant. Neither is naming him in the decree essential to his appointment. After appointment, he may die or resign or be removed, and then an order of the court, and not the original decree, will be the only means for appointing his successor. Furthermore, time is essential to select a receiver, to await his acceptance, to examine his sureties, and to approve his bond; and there can be no propriety or reason for delaying the entry of judgment while these formalities, which relate only to its execution, are transpiring. The object of a decree is to judicially determine the conflicting rights of the parties; and the object of a receiver is to give effect to the decree in favor of only one of the parties. The decree is necessary to create the office, but the appointment to it may be by subsequent order.

II. The second conclusion of the court is, that an appeal will operate as a supersedeas, suspending the appointment of a receiver, if he be not appointed when the appeal is taken, and suspending his operations under the decree, if his appointment has previously been made.

The idea that the receiver can be appointed under the hot springs act to hold the property pending the appeal, and collect the rents for the use of the ultimately successful party, springs entirely from the misuse of the word "receiver" in the statute. A receiver is an officer of a court of equity, appointed to take charge of property during the pendency of legal proceedings, to hold it for whom it may concern, and subject to the future order or disposal of the court. The receiver designated by the hot springs act is not to be appointed until a final decree is rendered; he is not to take possession of the property until it has been adjudged to be the property of the defendants; he is to pay its proceeds into their Treasury; and he is to hold the property until Congress, that is to say, until the defendants "direct how it shall be disposed of." There is not a single provision in the act which gives the slightest support to the suggestion that the receiver was intended
612 to hold the property for the safety of all parties, pending the appeal. On the contrary, if the receiver after an appeal taken should take possession of the land and collect the rents, and pay them into the Treasury, as directed by the statute, and the Supreme Court should afterward decide that one of the claimants is the rightful owner, both that court and this would be without authority to order a repayment of the rents from the Treasury, or even to decree a restitution of the lands to the successful party. The only power given to the court over the receiver is to pass upon his accounts, and punish him for his misconduct. The disposition of the property which he holds is directed by statute, and is beyond the judgment of the court. He is in fact the special administrative officer of the court, designated by Congress, to

give effect to a final decision in favor of the Government; and if he had been termed a master, a referee, or a marshal, no question would probably have arisen as to the legislative intent concerning the powers and functions of the office.

613 United States Court of Claims.

JOHN C. HALE, HENRY M. RECTOR, GEORGE McKAY, WILLIAM W. GITT, JOHN H. RUSSELL, WILLIAM H. GAINES, MARIA GAINES, ALBERT BELDING, HENRY BELDING, and GEORGE BELDING
vs.
THE UNITED STATES.

Decree of the court, April 26, 1875.

This cause having come on to be heard at this December term, 1874, and having been argued by counsel for the respectives parties claimant, and for the defendants, now, upon consideration thereof, it is ordered, adjudged, and decreed as follows:

That the claimant John C. Hale, and the claimant Henry M. Rector, and each of them, have no title, either legal or equitable, in their own right or in that of either of them, or as the assigns or representatives of John Percifull, deceased, or of Sarah M. Percifull, his widow, to the whole or any part of the following-described piece, parcel, or tract of land, to wit:

The southwest quarter of section number thirty-three, in township two south, of range 19 west of the fifth principal meridian, according to the surveys of public lands of the United States, lying and being in the State of Arkansas, and in the county of Hot Springs, and including the springs known as the hot springs of Arkansas.

And it is further ordered, adjudged, and decreed that the said claimants, Henry M. Rector, George McKay, William M. Gitt, John H. Russell, and John C. Hale, and each of them, have no title, legal or equitable, either in their own right or the right of either of them, or as the assigns or representatives of Francis Langlois or of Joseph Story, his assignee, to the following-described piece, parcel, or tract of land, to wit:

All that certain square tract of land of which the hot springs of Arkansas form the center, containing two hundred arpents of land, or one hundred and seventy and fourteen one-hundredth acres, being the premises surveyed by James S. Conway, deputy surveyor, by survey number two thousand nine hundred and three, and filed in the office of the surveyor-general of the United States, at Saint Louis, July 16, 1820, being more particularly described in said survey as follows: Beginning at a post, from which a pine ten inches in diameter (marked thus, H & R) bore south 47° east, 8 links; thence south 7 chains; a creek 15 links wide, east; at 41 chains 25 links set a post, from which a pine 15 inches in diameter bore north 47½° east, 23 links; thence east 19 chains 25 links to Hot Springs Creek—25 links wide, runs south; at 41 chains 25 links set a post, from which a post-oak 10 inches in diameter bore south 62° west, 16 links; thence west, 41 chains 25 links, to the beginning.

And it is further ordered, adjudged, and decreed as follows, viz:

That the claimants, William H. Gaines, Maria Gaines, formerly Maria Belding, Albert Belding, Henry Belding, and George Belding, and each of them, have no title, legal or equitable, either in their own right or as

the heirs and legal representatives of Ludovicus Belding or of
614 Lydia Belding, his widow, to the whole or any part of the piece, parcel, or tract of land hereinbefore first described, to wit: The southwest quarter of section thirty-three, in township two south, of range nineteen west of the fifth principal meridian, as before more specifically described.

And it is further ordered, adjudged, and decreed that the title, legal and equitable, to the foregoing tracts or parcels of land, and each of them, is vested wholly and absolutely in the defendants, The United States; and that they be taken, held, and possessed by a receiver to be appointed by this court, who shall take charge of and rent out the same for the United States, until Congress shall by law direct how the same shall be disposed of; and that the said receiver shall, before entering upon the duties of his office, execute and file with the clerk of this court a sufficient bond, in the penal sum of one hundred thousand dollars, to be approved by the court, conditioned for the faithful performance of his duties as such receiver, with two or more sufficient sureties, who shall attend and justify before a judge of this court at chambers, or before any district judge of the United States in whose district they may reside, to an amount in the aggregate of two hundred thousand dollars, and that such receiver shall render a strict account of the manner in which he shall have discharged said duties and of all moneys received by him as receiver as aforesaid, up to and including the thirtieth day of June, and up to and including the thirty-first day of December in each year, or as often as he shall be directed so to do by the court, and to make such further reports as may be directed, and that he deposit all moneys collected by him as such receiver with the nearest designated depositary of the Treasury or assistant treasurer of the United States so soon as the same may be collected, and that he pay all such moneys into the Treasury of the United States, after deducting therefrom his expenses and compensation, to be first audited, approved, and allowed by this court.

It is further ordered, adjudged, and decreed that the before-named claimants, and each of them, and all persons claiming to hold the said tract of land hereinbefore described, or any part or parcel thereof, under the before-named claimants or any of them, or otherwise, be, and they are hereby, commanded and required to surrender and deliver up the same, with all the buildings, fixtures, improvements thereon, of whatsoever kind, to the said receiver, to be possessed and held by him for and on behalf of the defendants, The United States.

And it is further ordered, adjudged, and decreed that none of the before-named claimants in this action, nor any other person whomsoever, has any title, legal or equitable, to the piece, parcel, or tract of land hereinafter described, or to any portion thereof, to wit, the four sections or parts of sections of land immediately around the hot springs of Arkansas, as reserved for the future disposal of the United States by the act 20th April, (4 Stat. L., p. 505,) which premises are more particularly described as follows, to wit: The whole of sections thirty-two and thirty-three, township two south of the base-line, range nineteen west of the fifth principal meridian; also the south half of section twenty-eight, and the south half of section twenty-nine, of the same township and range; and also the north half of section four, and the north half of section five, of township three south of the base-line, range nineteen west of the fifth principal meridian, as laid down in the surveys of public lands of the United States in the State of Arkansas and county of Hot Springs.

And it is further ordered, adjudged, and decreed that the title, legal and equitable, to the foregoing four sections or parts of sections
615 of land last described, and each and all of them, is vested wholly and absolutely in the defendants, The United States, and that the said four sections or parts of sections be taken, held, and possessed by the receiver, to be appointed by this court as hereinbefore provided, who shall take charge of and rent out the same for the United States as before directed.

And it is further ordered, adjudged, and decreed that the before-named claimants, and each of them, and all persons claiming to hold any portions of the said four sections or parts of sections of land hereinbefore described, either under the before-named claimants or otherwise, be, and they are hereby, commanded and required to surrender and deliver up the same to the said receiver, to be possessed and held by him for and on behalf of the defendants, The United States, as hereinbefore provided.

And it is further ordered, adjudged, and decreed that the petition of the said claimants, and each of them, be dismissed.

By the court.

616 In the Court of Claims of the United States, December term, 1874.

JNO. C. HALE
vs.
THE UNITED STATES. } No. 6203.

Prayer for appeal.

Comes the claimant, by his attorney, and prays the court for an appeal from the decree rendered in this case to the Supreme Court of the United States.

April 26th, 1875.

FRED. P. STANTON,
For the Claimant.

Filed April 26, 1875.

617 In the Court of Claims of the United States, December term, 1874.

HENRY M. RECTOR, COMPLAINANT,
vs.
THE UNITED STATES OF AMERICA. } In equity. No. 6245.

Prayer for appeal.

The said Henry M. Rector comes and prays an appeal, from the decision and decree against him in this case made and given, to the Supreme Court of the United States.

HENRY M. RECTOR,
By ALBERT PIKE,
ROBERT W. JOHNSON, AND
SANBORN AND KING,
His Solicitors.

Filed April 26, 1875.

618 In the Court of Claims of the United States, Dec. term, 1874.

WILLIAM H. GAINES ET ALS.
vs.
THE UNITED STATES. } No. 6208.

Prayer for appeal.

Now come the said claimants, by their attorneys, and pray an appeal from the judgment and decree of this court, rendered in the said cause this day, to the Supreme Court of the United States.

JOHN WILSON,
DENVER AND PECK,
Attorneys for Claimants.

Filed April 26, 1875.

619 United States Court of Claims, Dec. term, 1874.

JOHN C. HALE AND OTHERS, HOT SPRINGS cases,
vs.
THE UNITED STATES.

Whereas on this 26th day of April, 1875, this court, on due deliberation, ordered, adjudged, and decreed that the premises in question in these causes belong to, and that the title thereto, legal and equitable, was in the defendants, The United States, and that neither of said claimants had any title to or interest in said premises, and application being made by the respective parties for the allowance of an appeal from said judgment: And now comes the Attorney-General, on behalf of the United States, and moves the court for an order that no appeal
620 from said judgment be allowed, except on condition that the party appealing give such security as shall be approved by the court, conditioned that said party so desiring to appeal shall secure the said United States against any loss or damage in consequence of such appeals.

JOHN GOFORTH,
Asst. Atty. General.

Filed April 26, 1875.

In the United States Court of Claims, Dec. term, 1874.

JOHN C. HALE
vs.
THE UNITED STATES.

HENRY M. RECTOR
vs.
SAME.

WILLIAM H. GAINES ET ALS.
vs.
SAME.

APRIL 26, 1875.

Pending the applications for the allowance of appeals in these
621 case, Mr. Assistant Attorney-General Goforth filed a motion asking

that no appeals from the judgment in these cases be allowed except on condition that the party appealing give such security as shall be approved by the court, conditioned that said party so desiring to appeal shall secure the United States against any loss or damage in consequence of such appeal. This motion was overruled, and it was thereupon ordered that the appeals in the above-entitled causes be allowed as prayed for.

By the court.

622 In the Court of Claims of the United States, December term, 1874.

GEORGE MACKAY AND WILLIAM W. GITT } No. 6244.
vs.
THE UNITED STATES.

Prayer for appeal.

The claimants, by their counsel, appeal to the Supreme Court of the United States, and pray the same may be allowed.

BARTLEY AND CASEY,
Attorneys for Claimants.

Filed May 17, 1875.

Allowed, as prayed for, May 17, 1875.

By the court.

623 In the Court of Claims of the United States, December term, 1874.

JOHN H. RUSSELL } No. 6246.
vs.
THE UNITED STATES.

Prayer for appeal.

The above-named plaintiff, John H. Russell, appears in propria persona an' prays an appeal to the Supreme Court of the United States from the judgment and decree of the Court of Claims in the above-entitled cause, and which appeal he prays may be allowed by the said Court of Claims; and he will ever pray, etc.

JOHN H. RUSSELL.

Filed June 23, 1875.

AT CHAMBERS.

Allowed.

C. D. DRAKE,
Chief Justice.

JUNE 23, 1875.

624 In the Court of Claims of the United States.

JOHN C. HALE } No. 6203.
vs.
THE UNITED STATES.

HENRY M. RECTOR } No. 6245.
vs.
THE UNITED STATES.

GEORGE MACKAY AND WILLIAM W. GITT
vs.
THE UNITED STATES. } No. 6244.

JOHN H. RUSSELL
vs.
THE UNITED STATES. } No. 6246.

WILLIAM H. GAINES AND HIS WIFE, MARIA Gaines, Albert Belding, Henry Belding, and George Belding
vs.
THE UNITED STATES. } No. 6248.

Consolidated by order of the court.

I, John Randolph, assistant clerk of the Court of Claims of the United States, do hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled causes; of the order of consolidation; of the evidence filed, and at the hearing of said causes, offered and read in behalf of said intercontesting claimants and of the defendants; of the opinion of the court, filed March 29, 1875; of the dissenting opinion; of the opinion of the court on the settlement of the decree;
625 filed April 26, 1875; of the decree of the court; of the application of the several claimants for the allowance of appeal to the Supreme Court of the United States; and of the orders of the court, and of the Chief-Justice of the court at chambers, allowing said appeals.

In testimony whereof I hereunto set my hand and affix the seal of said Court of Claims this 29th day of July A. D. 1875.

[SEAL.] JOHN RANDOLPH,
Asst. Clk. Ct. of Claims.

(Indorsement on cover:) No. 646. Henry M. Rector, appellant, vs. The United States. Filed 6th October 1875. No. 692. John C. Hale, appellant, vs. The United States. Filed 13th October, 1875. No. 772. William H. Gaines & his wife, Maria, formerly Maria Belding, Albert Belding, Henry Belding, & George Belding, heirs at law of Ludovicus Belding, dec'd, appellant, vs. The United States. Filed 21st October, 1875. Court of Claims.

REC. 646—39

C

— 3 Statutes 417 —

19 Arkansas p 71 —
26 " p 169
21 Howard p 431
9 Wallace (431)
p 197

= Mr Stanton
= 3 Howard 650 =

Hot Springs } Judge Day

2-698

Supreme Court United States.

OCTOBER TERM, 1875.

No. 646.

HENRY M. RECTOR, Appellant,

vs.

THE UNITED STATES.

BRIEF AND ARGUMENT FOR APPELLANT.

MATT. H. CARPENTER,

Counsel.

M'GILL & WITHEROW, PRINTERS AND STEREOTYPERS, WASHINGTON, D. C.

Page 16 – Bkr's brief – Little Rock Confirmation in 1820 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 18 –

p 44 – What is necessary

p 71-3 Second Brief [illegible] in Recorders [illegible]

p 79

Supreme Court of the United States.

HENRY M. RECTOR, Appellant,

vs.

THE UNITED STATES.

This is an appeal from an adjudication of the Court of Claims under the act of June 11, 1870, 16 Stat., 149, to determine the conflicting claims of parties claimant, and of the United States, as defendants, to the Hot Springs of Arkansas, which act provided as follows:

"That any person claiming title, either legal or equitable, to the whole or any part of the four sections of land constituting what is known as the Hot Springs reservation in Hot Springs county, in the State of Arkansas, may institute against the United States in the Court of Claims, and prosecute to final decision any suit that may be necessary to settle the same, &c.

SEC. 2. That all such suits shall be, by petition, in the nature of a bill in equity, and shall be conducted and determined in all respects, except as herein otherwise provided, according to the rules and principles of equity practice and jurisprudence, in the other courts of the United States; and for the purposes of this act the Court of Claims is hereby invested with the jurisdiction and powers exercised by courts of equity, so far as may be necessary to give full relief in any suit which may be instituted under the provisions of this act.

SEC. 4. That if two or more parties claiming "the same land under *different rights* shall institute separate suits under

the provisions of this act, such suits shall be consolidated and tried together, and the court shall determine the question of title, and grant all proper relief as between the respective claimants, as well as between each of them and the United States."

Henry M. Rector, the appellant, commenced suit in the Court of Claims against the United States, claiming two hundred arpents, or one hundred and seventy and fifteen hundredth acres, in square form, with the principal hot spring as near as might be in the centre.

This claim is founded upon a location of certificate No. 467, issued under the New Madrid relief act, passed February 17, 1815, 3 Stat., 211, which location was made by survey No. 2903, executed by a deputy surveyor, under the direction of the surveyor for the territories of Illinois and Missouri, on the application of Samuel Hammond and Elias Rector, father of the said Henry M. Rector, in 1820.

The New Madrid act provided as follows:

"SEC. 1. That any person or persons owning lands in the county of New Madrid, in the Missouri Territory, with the extent the said county had on the tenth day of November, one thousand eight hundred and twelve, and whose lands have been materially injured by earthquakes, shall be, and they are hereby authorized to locate the like quantity of land on any of the public lands of the said territory, the sale of which is authorized by law: *Provided*, That no person shall be permitted to locate a greater quantity of land under this act than the quantity confirmed to him, except the owners of lots of ground or tracts of land of less quantity than one hundred and sixty acres, nor shall any person be entitled to locate more than six hundred and forty acres, nor shall any such location include any lead mine or salt spring: *And provided, also*, That in every case where such location shall be made according to the provisions of this act, the title of the person or persons to the land injured as aforesaid, shall revert to, and become absolutely vested in the United States.

SEC. 2. That whenever it shall appear to the recorder of land titles for the territory of Missouri, by the oath or affirmation of a competent witness or witnesses, that any person or persons are entitled to a tract or tracts of land

under the provisions of this act, it shall be the duty of the said recorder to issue a certificate thereof to the claimant or claimants; and upon such certificate being issued, and the location made on the application of the claimants, by the principal deputy surveyor for said territory, or under his direction, whose duty it shall be, to cause a survey thereof to be made, and to return a plat of each location made to the said recorder, together with a notice in writing, designating the tract or tracts thus located, and the name of the claimant on whose behalf the same shall be made; which notice and plat the said recorder shall cause to be recorded in his office, and shall receive from the claimant for his services on each claim, the sum of two dollars, for receiving the proof, issuing the certificate, and recording the plat and notice as aforesaid; and the surveyor shall be entitled to the same compensation for his services from the party applying, as is allowed for surveying the public lands of the United States."

"SEC. 2. That it shall be the duty of the recorder of land titles to transmit a report of the claims allowed, and locations made under this act, to the Commissioner of the General Land Office, and shall deliver to the party a certificate, stating the circumstances of the case, and that he is entitled to a patent for the tract therein designated, which certificate shall be filed with the said recorder within twelve months after date, and the recorder shall thereupon issue a certificate in favor of the party, which certificate being transmitted to the Commissioner of the General Land Office, shall entitle the party to a patent, to be issued in like manner as is provided by law for other public lands of the United States."

The said certificate, No. 467, was issued, under the provisions of the act, to Francis Langlois, on the 29th day of November, 1818, who, on the same day, by one Joseph Story, his attorney in fact and assignee, released to the United States two hundred arpents of land in the county of New Madrid. The right of Langlois to this certificate, by mesne conveyances, came to Elias Rector and one Samuel Hammond, who, on the 27th of January, 1819, applied, under the act, to have the same located as aforesaid. Thereupon a survey was ordered by the surveyor, and made by a deputy surveyor, James R. Conway, and re-

ported to the surveyor's office in St. Louis, on or about the 16th day of July, 1820, and registered in the said office as survey No. 2903.

The act made it the duty of the surveyor to return a plat of each location made under it to the recorder of land titles at St. Louis, together with a notice in writing, designating the tract or tracts thus located, and the name of the claimant on whose behalf made, which notice and plat the recorder was required to have recorded in his office. This duty in regard to this location, the surveyor omitted to perform, in obedience to instructions from the General Land Office, based upon opinions of Attorney General Wirt, holding, as follows:

1. That New Madrid locations must conform with the general plan of surveying the public lands;

2. That locations made in a square, previous to the sectional lines being run, were wholly inadmissible, sale being unauthorized until after the running of the sectional lines; and that therefore such locations, being without authority and void, could not be patented: and

3. That the cotemporaneous survey of such locations with the general survey, and permitting them to produce the effect of causing fractions in the general survey, was unauthorized by law.

The right of the claimant, Rector, depends upon the validity or invalidity of the said survey No. 2903, as a location of the said certificate under the act.

The Court of Claims, deciding against the claim of Rector with evident reluctance, but in deference to language used by this court, in several cases differing from this, say:

"It has been argued, with unusual learning and power, that the location was complete when the survey was made, returned, approved, and filed in the office where it was permanently to remain, and that thereby the title to the land injured by the earthquake reverted to and vested absolutely in the United States. We are not unmindful of any part of this cogent argument. *We perceive that everything had been done by the parties which the law required them to do, and that everything which remained to be done was made*

a statutory duty on the part of the officers of the Government. We also perceive that, by the surrender of the first certificate, a party might suffer irreparable loss, and that he was without legal means to compel the Surveyor General to act by transmitting the plat and notice to the recorder. We are also aware that the Supreme Court has announciated the principle that things which the public officers ought to have done should be regarded as having been done. (Lytle *v.* Arkansas, 9 How. R., 314.")

It is well settled that where a party has done everything within his power to establish a right, such right shall not be prejudiced by the non-performance of the duty of any public officer.

In *United States* v. *Reading*, 18 How., 1, this court, speaking of a Mexican grant, the finality of which depended upon its being reported to and approved by the Departmetal Assembly, say:

"But if the governor failed to transmit the documents, from any cause whatever, the grantee's title continued to be just what it was when the grant was given. Nor could any neglect or refusal of the governor to transmit his grantee's documents of title to the Assembly take from him his right in the land, if the grant had been made with a due regard to what the decree of the 18th of August, 1824, required, and in conformity with the cautionary regulations of that of the 21st of November, 1828. In other words, from our reading of those decrees, the governor could not either directly recall a grant made by him, or indirectly nullify it when it had been conferred conformably with them. Those decrees prescribe a course of action for such grants, and impose upon the governor the execution of it. When, then, the archives of the territory of the Californias do not show that the governor's grants of land had been sent to the Departmental Assembly, or that, having been sent, they had been rejected, and that after such rejection they had not been sent by the governor making the grants to the supreme executive government for its final decision, the titles of the grantees are just what they were in their beginnings, and are sufficient, now that the territory has been transferred to the United States, for confirmation under its statute of the 3d of March, 1851."

But the Government seeks to avoid the effect of this

principle by saying that this is not a case of the non-performance of duty by its officers; that this New Madrid certificate could not be lawfully located upon lands not covered by the public land surveys; and, therefore, the surveyor, in not making return to the recorder, under this act, was acting in the line of his duty. And this is the real and fundamental question upon which depends the validity or invalidity of the survey as a location of this certificate.

If this certificate could not be located upon lands not covered by the public land surveys, then, of course, the application and actual survey based thereon were of no effect; and the surveyor, with or without the instructions of his superior, was justified in treating them as nullities, and in refusing to make return to the recorder. On the contrary, if this certificate could be located upon lands not covered by the public land surveys, then the application to the surveyor, and the survey made in accordance therewith, were all that was required of the applicants to perfect their right; and the neglect or refusal of the surveyor to make return to the recorder, was the neglect or omission of a mere ministerial duty on the part of the surveyor, which cannot prejudice Rector's rights. So that the whole case, as respects Rector, is reduced to the single question, Could this certificate be lawfully located upon lands not included in the general land surveys?

The stress of the argument on the part of the Government is laid upon an assumed intention on the part of Congress to adhere in all cases to the system of rectangular surveys. It cannot be pretended that such intention, in regard to the relief of the New Madrid sufferers, is evidenced by the language of the act itself. But it is claimed that this general purpose of Congress, evidenced by other acts, must control the effect of this; and that construction must engraft upon it provisions not found therein. It is said that the reference in the act to the quantities of land, 160 acres in one case, and 640 in another, shows that

Congress had in mind the public land surveys, and that the reservation in the act of lead mines and salt springs is a further argument in favor of the construction, and that however particular a statute may be, yet if it relates to the public lands, it must be construed with reference to the great leading purpose of Congress to have all the public lands sold under the rectangular system of surveys. It therefore becomes necessary to examine the several acts of Congress in relation to the disposition of the public lands, to see whether Congress has adhered so inflexibly to this system as to force it, by construction, upon a particular statute which is silent in regard to it.

The first general act in regard to the disposition of the public lands was that of *May* 18, 1796, entitled "An act providing for the sale of the lands of the United States in the territory northwest of the river Ohio and above the mouth of the Kentucky river." This act provided for a survey of the lands by north and south lines, wherever practicable, and provided for the sale of said lands *after the survey.*

This act reminds us that governments, like individuals, have their day of small things. It authorized a sale for one-twentieth part of the purchase money, two dollars an acre, to be paid down, and to be forfeited if a moiety of the sum bidden including said twentieth part should not be paid within thirty days, with one year's credit for the residue; and the government offered a deduction of ten per cent. upon the second moiety if the purchaser would pay the whole purchase money within the thirty days after the sale.

The first pre-emption act is that of March 2, 1799, in favor of purchasers from John Cleves Symmes of land not covered by his patent. Section 2 provided that the claimants should give notice, within a time limited, that they claimed the right offered by the act.

Section 3 was as follows:

"That the surveyor general shall, as soon as may be, after the receipt of the notice aforesaid, lay off and survey the said lands, * * *unless the said lands have been hereto-*

fore surveyed and laid off by the said contractors or settlers; in which case the surveyor general shall survey *the outlines of such tract or tracts, so as to ascertain the contents,*" &c.

May 10, 1800, an act of Congress was passed, entitled "An act to amend the act entitled 'An act providing for the sale of the lands of the United States in the territory northwest of the Ohio and above the mouth of Kentucky river,'" which inaugurated the general system which has since been adhered to in the disposal of the public lands, with exceptions from time to time to meet particular circumstances.

This act established land offices to be under the direction of an officer designated as "the register of the land office." It was made the duty of the surveyer general to prepare and transmit to the register general plats of the lands directed to be sold. This act prescribed the general system of surveys and the mode in general for the disposition of the public lands which has since been followed, provided for public sale, and for private sales or entries of the lands not disposed of at such public sales; payments to be made to a receiver at such land offices, to be appointed by tbe President, by and with the advice of the Senate.

March 3, 1801, an act was passed entitled "An act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the territory of the United States northwest of the Ohio."

This act provided for the appointment of a commission to determine the rights of claimants under the act, and required said commissioners to give to the claimant a certificate,

"Stating as accurately as may be, the quality and *local situation* (that is, description) of the lands to which he may be entitled."

And the act provided for the issuance of patents therefor,

and that the subsequent government surveys should be made with reference thereto.

March 3, 1803, another act was passed entitled "An act regulating the grants of lands, and providing for the disposal of the lands of the United States south of the State of Tennessee."

This act provided for the location by any persons who had received from the British government of west Florida or from the Spanish government any warrant or order of survey for lands lying in the territory of Mississippi, *limited, however, to* 640 *acres.* This act established two land offices in the territory, and provided for the appointment of a register and receiver at each office; and provided that the claimant should deliver to the register a written notice stating the *nature and extent of his claim*, and created a commission, to consist of the register and two other persons to be appointed by the President, to pass upon such claims; "and when it shall appear to them that the claimant is entitled to *a tract* of land, * * they shall give a certificate thereof, *describing the tract of land and the grant*, and stating that the claimant is confirmed in his title;" and that the lands for which certificates should issue should be surveyed by the surveyor. And the same act extended the system of government surveys to this territory, as in case of the northwest territory.

These tracts were to be surveyed without regard to government lines, but the quantity which might be claimed *was limited to* 640 *acres.*

The act of March 26, 1804, entitled "An act making provision for the disposal of public lands in the Indiana territory, and for other purposes," extended the system of government surveys over all the lands of the United States north of the Ohio and east of the Mississippi rivers; made provision for claimants under grants from the French government prior to the treaty of Paris of February 10, 1763, or from the British government subsequent to said

treaty and prior to the treaty of peace between the United States and Great Britain of September 3, 1783.

Here, too, surveys were to be made of these grants without reference to the rectangular surveys, *but the amount* of lands to be obtained by such claimants was limited to *one mile square*, or 640 acres.

The act of March 26, 1804, entitled "An act erecting Louisiana into two territories, and providing for the temporary government thereof"—(that is, the territory of Orleans and the territory of Louisana)—contains many curious provisions, among others the following:

"The executive power now vested in the governor of the Indiana territory shall extend to and be exercised in the said district of Louisana. The governor and judges of the Indiana territory shall have power to establish, in the said district of Louisana, inferior courts, *and prescribe their jurisdiction and duties*, AND TO MAKE ALL LAWS WHICH THEY MAY DEEM CONDUCIVE TO THE GOOD GOVERNMENT OF THE INHABITANTS THEREOF.

What would not modern constitutionalists say of such a delegation of the law-making power of Congress? The governor and judges of Indiana enacting laws to govern the people of Louisiana!!!

This act protected Spanish grants, but limited the amount which under any circumstances should be obtained by one claimant to *one mile square, or* 640 *acres.*

The act of March 2, 1805, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the district of Louisana," provided "that for the purpose of more conveniently ascertaining the titles and claims to land, &c.," the territory of Orleans should be divided into two districts, in each of which should be appointed a register, with the powers of a register in the Northwest Territory, in regard to lands thereafter to be sold at their offices, and that a *recorder of land titles* should be appointed for the district of Louisiana.

This act provided in detail for the ascertainment of French and Spanish grants, created a commission to de-

cide in relation thereto, and provided for the survey of such grants as should be held valid; surveys to be made without reference to the public survey, but still the amount was limited to *one mile square*—640 *acres.*

The act of February 28, 1806, extended the land system to the territory of Louisiana; directed the surveyor general to appoint a sufficient number of skillful surveyors as his deputies, one to be designated the principal deputy for said territory, to keep his office within the territory, *and be the custodian of all plats, surveys, papers, and documents pertaining to the office of surveyor general,* or which did pertain to it under the Spanish government; and provided that *no plat of survey should be admitted as evidence* in any court of justice *unless certified by the principal deputy to be a true copy of the record in his office.*

The act of February 15, 1811, granted to French and Spanish claimants owning a tract of land bordering on any river, creek, bayou, or water-course in the territory of Orleans, and not exceeding in depth forty arpents, French measure, a right of pre-emption of "any vacant tract of land adjacent to and back of his own tract, not exceeding forty arpens in depth, nor in quantity of land that which is contained in his own tract;" and the government surveyor was required to survey the tracts claimed under this provision, and where, from a bend in the river, the lines of claimants would conflict, to divide the lands between the claimants in such manner as should appear to the surveyor to be equitable.

Section 8 of this act directed a survey of the public lands in Louisiana territory (then including what is now Missouri and Arkansas) according to the rectangular survey; and the act created a land office, with a register and receiver, for the sale of the lands, but provided (section 10) that tracts, the claims to which had been presented to the *recorder of land titles,* should not be sold until the decision of Congress thereon.

During the years from 1807 to 1815, many similar acts were passed for the relief of Canadian refugees, for the

location of military land claims, and for the adjustment of the rights of claimants under French and Spanish grants. Louisiana Territory (including what is now Missouri and Arkansas) was dotted all over with these grants, and not an act of Congress relating to the public lands in that Territory can be found, which does not contain reference to or provision for private surveys of these claims for land, irregular in form, and in disregard of the Government surveys. In other words, the rectangular surveys were adopted for the sake of convenience, and were departed from whenever a greater convenience demanded it.

Several other things, important to be considered here, are suggested by a perusal of these acts.

(1.) Every disposition of the public lands by sale under Government surveys has been effected through the instrumentality of registers and receivers. These offices were created when the first land office was established in the northwestern territory; and not a land office has been established for the sale of lands under Government surveys from that time to this that has not been under the management of a register and receiver. Indeed, these offices are as much a part of the Government system as the rectangular survey itself.

The Territory of Louisiana contained so many of these claims for land irregular in form that Congress created in that Territory the office of "recorder of land titles," whose duties and jurisdiction related only to those irregular tracts; and when the general plan for the disposal of the public lands under Government surveys was extended over this Territory by the act of February 15, 1811, a land office was created, to be administered by a register and receiver, who had the same jurisdiction as like officers in other Territories; that is, they were to sell all the lands to be sold under the Government surveys. The office of recorder of land titles was not abolished, but the lands subjected to his jurisdiction; that is, the lands claimed under these grants irregular in form were excepted out of the lands to be

surveyed and sold by the register and receiver under the regular land system.

And unto this day both systems continue. The recorder of land titles has his jurisdiction as to the lands claimed under these grants; and the register and receiver have their jurisdiction in regard to the lands sold, and to be sold, under and according to the Government survey.

2. It seems to be a settled principle with Congress that no one man should ever have more than one mile square of land. Consequently it has over and over again been declared that, no matter what might be his title, or the extent of his claim, the claimant should receive no more than one mile square. General Lafayette alone, I think, was excepted from this otherwise uniform rule.

3. Another thing will be especially noticed by any one who reads these acts. Everywhere, in season and out of season, where it was profitable and where it was idle, sensibly and nonsensically, with reservation piled upon reservation, Congress has declared the exclusive right of the Government to all "lead mines" and "salt springs." Two ideas seem to have been always in mind, that our liberties could only be defended with lead, and our free institutions preserved with salt. "As the heart panteth after the water brook," so this Government has always *longed for salt.*

In the light of these previous statutes we come to consider the New Madrid Relief Act, quoted in full on pages 2 and 3 of this brief.

Section 1 provided that any one owning lands in the county of New Madrid which had been materially injured by earthquakes, should be authorized to locate the like quantity of land on any of the public lands of the said Territory of Missouri, "*the sale of which is authorized by law:*" *Provided*, That no person should be permitted to locate a greater quantity of land than that owned by him, except those owning less than one hundred and sixty acres, who might locate that amount, "nor shall any person be en-

titled to locate more than six hundred and forty acres, nor shall such location include any lead mine or salt spring: *And provided also*, That in every case where such location shall be made according to the provisions of this act, the title of the person or persons to the land injured as aforesaid shall revert to and become absolutely vested in the United States."

Section 2 provided "that whenever it shall appear to the recorder of land titles" that any person is entitled to "a tract or tracts of land under the provisions of this act, it shall be the duty of the said *recorder* to issue a certificate therefor to the claimant;" * * "and upon such certificate being issued, and the location made, *on the application of the claimant, by the principal surveyor for said Territory, or under his direction*, whose duty it shall be to cause a survey thereof to be made, and to return a plat of each location made to the said recorder, together with a notice in writing, designating the tract or tracts thus located, and the name of the claimant "on whose behalf the same shall be made; which notice and plat the recorder shall cause to be recorded in his office, and shall receive from the claimant, for his services on each claim, the sum of two dollars, for receiving the proof, issuing the certificate, and recording the notice and plat as aforesaid; and the surveyor shall be entitled to the same compensation for his services from the party applying as is allowed for surveying the public lands of the United States."

Section 3. "*That it shall be the duty of the recorder of land titles to transmit a report of the claims allowed and locations made, under this act*, to the Commissioner of the General Land Office, and shall deliver to the party a certificate stating the circumstances of the case, and that he is entitled to a patent for the tract therein designated, which certificate shall be filed with the recorder within twelve months after date, and the recorder shall thereupon issue a certificate in favor of the party, which certificate, being transmitted to the Commissioner of the General Land Office, shall entitle the party to a patent, to be issued in like

manner as is provided by law for other public lands of the United States."

Now the question is, whether this act, read in connection with the prior legislation in regard to the public lands, *authorized a location of the certificate to be issued under this act upon lands not covered by the public surveys;* and that it did, the following considerations are submitted as conclusive:

1. The act authorized a location of this certificate "on any of the public lands of said territory the sale of which is authorized by law." I have shown that the law authorized and directed the sale of all the public lands to which the Indian title had been extinguished in this territory. It would seem that after Congress had passed a law not only authorizing, but commanding, the sale of lands, there could be no question that such lands were authorized by law to be sold. That is, Congress, which possesses the power of disposition of all the public lands of the Government, has done everything needful, when it has provided that the lands shall be sold in the way and manner prescribed by the act. In other words, that department of the Government which possesses the discretion to determine what lands shall, and what shall not be, sold, has exercised that discretion, and subjected the lands to sale, when it declares that the lands shall be sold in a prescribed manner. Suppose a testator in his will directs the executor to sell particular real estate, and prescribes the manner of sale to be by six months' advertisement, and after a certain survey and division prescribed by the will. Can there be a doubt that a release executed by an heir or legatee, between the death of the testator and the time when the sale could take place, of all his interest in the avails of lands "authorized by the will to be sold," would be held to intend the lands mentioned in the will, although no sale thereof could be made in the manner pointed out, until after the execution of the release?

The phrase "lands the sale of which is authorized by law" is descriptive of the lands upon which the location of

this certificate might be made. Where but to the acts of Congress could the claimant go to ascertain whether a particular tract, upon which he wished to make the location, had been authorized by law to be sold? Congress alone possesses the power of determining what lands shall be reserved, and what lands shall be sold; and when Congress has *authorized* certain lands to be sold, and directed the manner of sale, provided for surveys in certain form, and advertisement for a certain time, it seems a contradiction in terms to declare that such lands have not been authorized by law to be sold, although the surveys may not have been completed or the time of advertisement elapsed. The surveys, advertisement, proclamation of the President, &c., are but *the mode and manner* of conducting the sale, and *cannot take place* until *the sale of the lands has been first authorized by law.*

Again, when Congress authorizes the sale of lands, it prescribes a survey, then a public sale, then sales by private entry. Now, if such lands are not authorized by law to be sold when the act directing their sale becomes a law, at what point in the proceedings do such lands come within this phrase? Suppose the surveys to be made, and the land advertised by the President's proclamation for public sale on a certain future day. Could this certificate be located upon them before the day fixed for such sale? Certainly not, if the argument opposed to us be sound. For until such day the lands cannot be sold, and therefore are not by law authorized to be sold. But the lands may all be sold at the public sale, and then the certificate could never be located.

But conceding, for the purpose of the argument, that this phrase is ambiguous in this particular, and certainly this is all that can reasonably be contended for on the other side, then the entire act, from its title to its conclusion, the object of the act, the circumstances of the case intended to be provided for, and the situation of those intended to be relieved, *all* must be taken into consideration to ascertain the intention of Congress, and the act must be so construed

as to give full effect to that intention. When the law-making department enters upon the path of benevolence and charity, it is the duty of the courts so to construe its acts as to secure the end in view.

Now what was the case with which Congress by this act was dealing?

There had been no public surveys in the Territory of Missouri, then including the now States of Missouri and Arkansas. The settlers of New Madrid county resided upon tracts of irregular shape, which they held under French and Spanish grants. They knew nothing of rectangular surveys; they had never paid court to registers nor tribute to receivers. They were frontier settlers, pioneers of civilization in the wilderness, striving to win a scanty living.

In this situation their farms were destroyed by the march of earthquakes. Congress came to their relief, and proposed to take back their devastated lands, and give them new homes "*on any of the public lands of the said territory, the sale of which is authorized by law.*" They had been cultivating the soil in total disregard of rectangular lines; and probably their respective tracts were not made more regular in form by the operation of the earthquakes. Therefore nothing was lost in the interest of *rectangularism* by permitting them to surrender their lands to the Government, to be regularly surveyed and sold, and taking in exchange an equal quantity of public lands elsewhere, in such form as they might elect.

2. Again, Congress was volunteering aid and relief to sufferers from the convulsions of nature, because their lands were no longer fit for cultivation and their homes were destroyed. We who have grown to manhood in new States, and witnessed the trials and privations of pioneer settlement, the hand-to-hand struggle for daily subsistence, the necessity of an autumn crop to carry a family through the long and dreary winter, how closely consumption follows production; and considering, too, the general embar-

rassment and poverty of our people at that period, shown by the repeated acts of Congress extending the credits given to purchasers of the public lands, and shown more signally by the fact that a whole generation of statesmen in Congress was ruined by an attempt in that year, 1815, to increase their compensation, from which they humbly receded the next year, preferring to starve in the public service rather than leave it; *we* never can be made to believe that Congress intended to heap insult upon calamity, by saying to these sufferers, "If you will surrender your now worthless lands, and wait five, ten, or fifteen years, as the case may be, until the rectangular system of surveys can be perfected, we will give you homes on other lands." We cannot believe that Congress intended to subject the population of a whole county to starvation, out of devotion to a prim and particular system of surveys.

3. But the act itself furnishes still more conclusive evidence that it was the intention of Congress to permit these settlers to locate their certificates upon unsurveyed lands.

The office of *recorder of land titles* was, as before shown, established with special reference to these private surveys in irregular form, and the registers and receivers had jurisdiction of all lands to be sold under Government surveys. If it had been the intention of Congress that the New Madrid sufferers should locate their certificates only upon regularly surveyed lands, why was it not provided that they should apply to the *register* for location? Upon the theory of the opposite argument, no location could be made until after the Government surveys had been made and returned to the register. Upon this theory surely the act would have required the claimant to apply to the *register* for his location, and would have provided that, in case the amount to be located exceeded any legal subdivision of lands, a survey of such excess should be made. But instead of this, the act provides that the certificate shall be issued by the recorder of land titles, not the register, and that it shall be located in all cases, "on the application of the claimant, by the principal deputy surveyor,

or under his direction, whose duty it shall be *to cause a survey to be made,*" &c.

Upon the theory that this act authorized a location upon unsurveyed lands, all its provisions are harmonious and essential. There could be no location without a survey; hence the act provided that the location should be made by a survey, to be made by the principal deputy surveyor or under his direction. And again: a location surveyed would not correspond with the Government surveys, and hence the act directed the surveyor to make return of the location to the recorder of land titles, instead of the register.

But upon the theory that the location could not be made until the lands were in situation to be sold under the Government surveys, that is, after all the lands were surveyed and returned and platted in the register's office, why did not the act commit the location to the register, instead of the recorder of land titles? And why order the lands to be located by a *survey* to be made by the surveyor, when the lands had already been surveyed?

In case the claimant wished to locate just 160 acres, or 640 acres, or any other quantity corresponding to legal subdivisions of the regular surveys, yet the location could only be made by another survey, to be returned to the recorder, who had no jurisdiction over or connection with the disposition of the regularly surveyed lands.

Again, the act gives a right *in præsenti* to the New Madrid sufferers.

The day after the act was approved, the settler was entitled to make proof to the recorder, obtain his certificate, apply for its location, have it surveyed, and obtain a certificate calling for a patent. Yet at the date of the act none of the public lands in the Territory had been surveyed, and, with the construction claimed by the Government, it was a dead letter, wholly inoperative for want of a subject matter to which it could apply.

These considerations are submitted as establishing the

intention of Congress to permit the new certificates to be located upon the unsurveyed lands. And this brings us back to the principle declared in *Lytle* v. *Arkansas*, 9 *How.*, 314, that after the claimant had made proof, obtained his certificate, applied for its location, and the location had in fact been made by a survey executed in the field, and returned to the office of the surveyor, and there approved and registered, the claimant having performed everything required of him, became the equitable owner of the property, and his rights could not be impaired by the omission or neglect of any duty to be performed by the officers of the Government. Therefore, even conceding, for the argument, that the location was not complete for all purposes, until the surveyor returned the plat and description to the *recorder of land titles*, yet the claimant, having done all that was required of him, is entitled in equity to the lands located as against the United States, the legal title still remaining in the Government.

The act under which this suit was commenced directs that the court shall determine the case "according to the *rules and principles of equity practice and jurisprudence* in the other courts of the United States."

Story in 1st Equity Jurisprudence, sec. 64, (*g*,).says:

"Another, and the last maxim, which it seems necessary to notice, is, that equity looks upon that as done. The true meaning of this maxim is, that equity will treat the subject matter, as to collateral consequences, and incidents, in the same manner as if *the final acts contemplated by the parties had been executed, exactly as they ought to have been;* not as the parties might have executed them. But equity will not thus consider things in favor of all persons; but only in favor of such as have a right to pray, that the acts might be done. And the rule itself is not, in other respects, of universal application; although Lord Hardwicke said, that it holds in every case, except dower. The most common cases of the application of the rule are under arguments. All arguments are considered as performed, which are made for a valuable consideration, in

favor of persons entitled to insist upon their performance. They are to be considered, as done at the time when, according to the tenor thereof, they ought to have been performed. They are, also, deemed to have the same consequences attached to them; so that one party, or his priories, shall not derive benefit by his laches or neglect; and the other party, for whose profit the contract was designed, or his privies, shall not suffer thereby. Thus, money covenanted, or devised, to be laid out in land, is treated as real estate in equity, and descends to the heir. And, on the other hand, where land is contracted, or devised, to be sold, the land is considered and treated as money."

Suppose an agreement between A and B, for an exchange of lands, A to convey his land to B, and to pay an agent of B for surveying an equal amount of B's land, the survey to be reported to another agent of B, or to B himself; and *thereupon* B to convey the second tract to A. And suppose A to have performed his part of the contract fully, but that B's agent neglected to report the survey to B, and for that reason B refused to execute a deed, would a court of equity hesitate a moment in such case to decree a conveyance? And that is precisely this case.

The Government has waived its sovereignty, and submitted this claim to the determination of the courts, and directed their decision to be made "*according to the rules and principles of equity practice and jurisprudence* in the other courts of the United States;" that is, this case is to be determined as this court would determine such a case between individuals.

II.

The objection to Rector's right most relied on, is that this tract of land was surveyed independently of the government surveys, and that its lines did not conform to the government lines. I have tried to show that this objection never had any existence under the New Madrid act, because such location was authorized by the act. But if I

am in error on that point, still the objection is removed by an act of Congress.

On the 26th of April, 1822, the following act was passed:

"SEC. 1. That the locations heretofore made of warrants issued under the act of the seventeeth of February, one thousand eight hundred and fifteen, entitled 'An act for for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes,' if made in pursuance of the provisions of that act in other respects, shall be perfected into grants in like manner as if they had conformed to the sectional or quarter sectional lines of the public surveys; and the sales of fractions of the public lands heretofore created by such locations shall be as valid and binding on the United States as if such fractions had been made by rivers or other natural obstructions.

SEC. 2. That hereafter the holders and locators of such warrants shall be bound, in locating them, to conform to the sectional or quarter sectional lines of the public surveys, as early as the respective quantities of the warrants will admit; and all such warrants shall be located within one year after the passage of this act, in default whereof the same shall be null and void." (3 St., 668.)

It is manifest that Congress intended by this act to remove, in regard to all locations made under the New Madrid act, all objections thereto, for want of conformity to the public surveys. This is the only objection to the survey under which Rector claims. But it is said the act only applies to those locations which had been made "in pursuance of the provisions of that act (the New Madrid act) in other respects;" that the location in this case *had not been so made*, because the surveyor did not return a plat and written description of the location to the recorder; and it is claimed that *this court has so decided in several cases:* referring to Bagnall *v.* Broderick, 13 Pet., 465; Barry *v.* Gamble, 3 How , 32; Lesieur *v.* Price, 12 How., 57; Hale *v.* Gaines, 22 How., 144, and Rector *v.* Ashley, 6 Wall., 143.

This objection to this curative act is disposed of by the decision of this court in *Mackay* v. *Easton*, 19 *Wall.*, 619, which was a case where the survey had been made upon

unsurveyed lands, as it was said, in 1818, and no plat or written description had been sent by the surveyor to the recorder. The objection was made in that case, as it is here, and all the former decisions of this court from Bagnall *v.* Broderick to Rector *v.* Ashley were cited as sustaining the objection. But this court, after reviewing the former decisions, and stating the distinction between the location by the surveyor, in the field, and the subsequent proceedings *founded upon the location* which would effect a "completed appropriation" of the land, said:

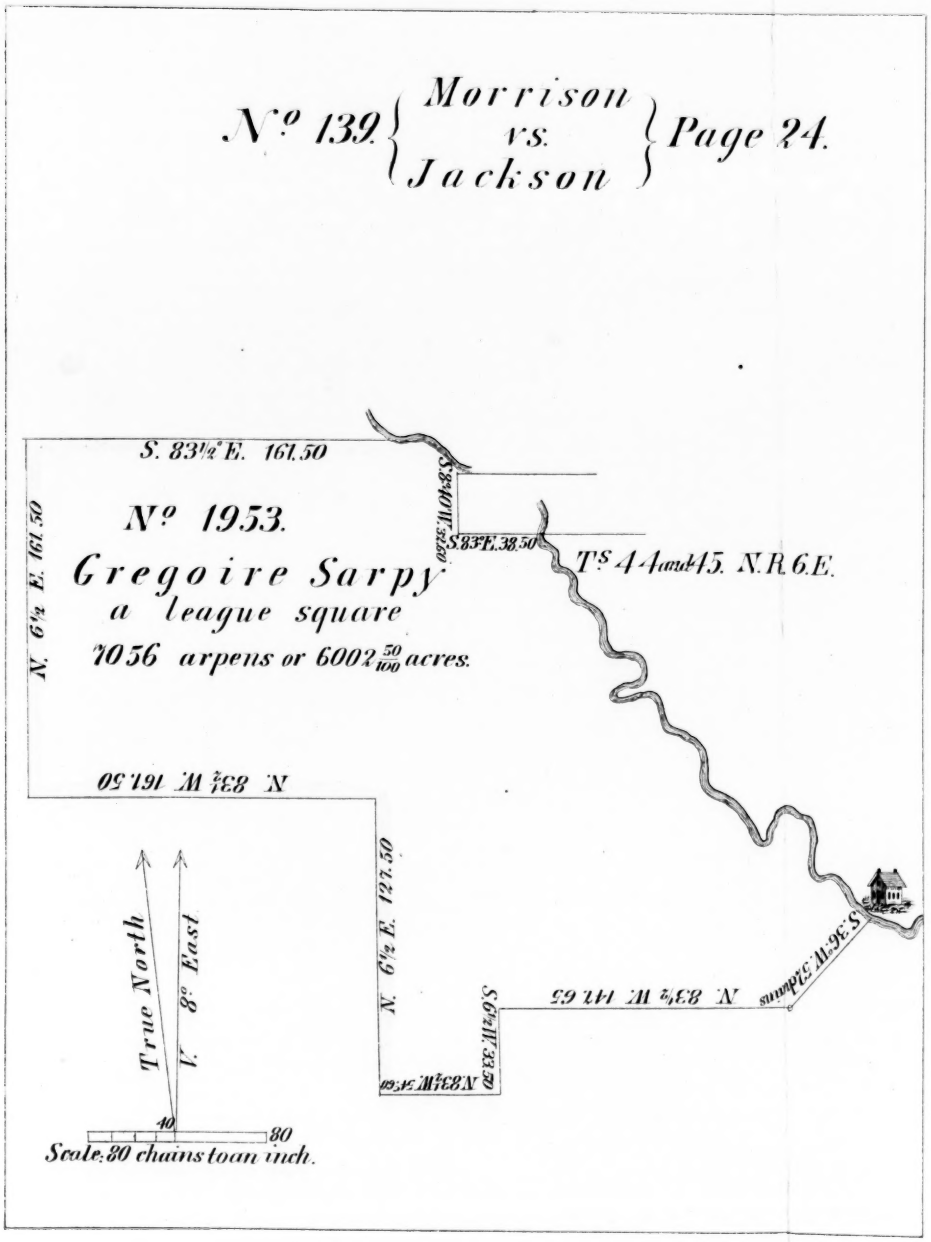
"It often happened that the locations made at the request of claimants *by deputy surveyors* were upon lands which had not been surveyed by the Government, or if surveyed, the locations did not conform to the sectional and quarter sectional lines of the surveys. To remedy defects of this character Congress passed the act of April 26, 1822. That act *refers in its first section to the* ACTUAL LOCATIONS made by the deputy surveyor at the request of the claimant, and *not to the completed appropriation* of the land by the return of the plat of the survey to the recorder of land titles.

"The actual location of the New Madrid certificate issued to Smith was made and approved in 1818, and any objection to it for want of conformity to the lines of the public surveys was removed by the first section of the act of 1822. This actual location became a *perfected* location, so as to appropriate the land on the return of the survey to the recorder in 1823, except as against the Spanish concession, which was confirmed to the representatives of Bell."

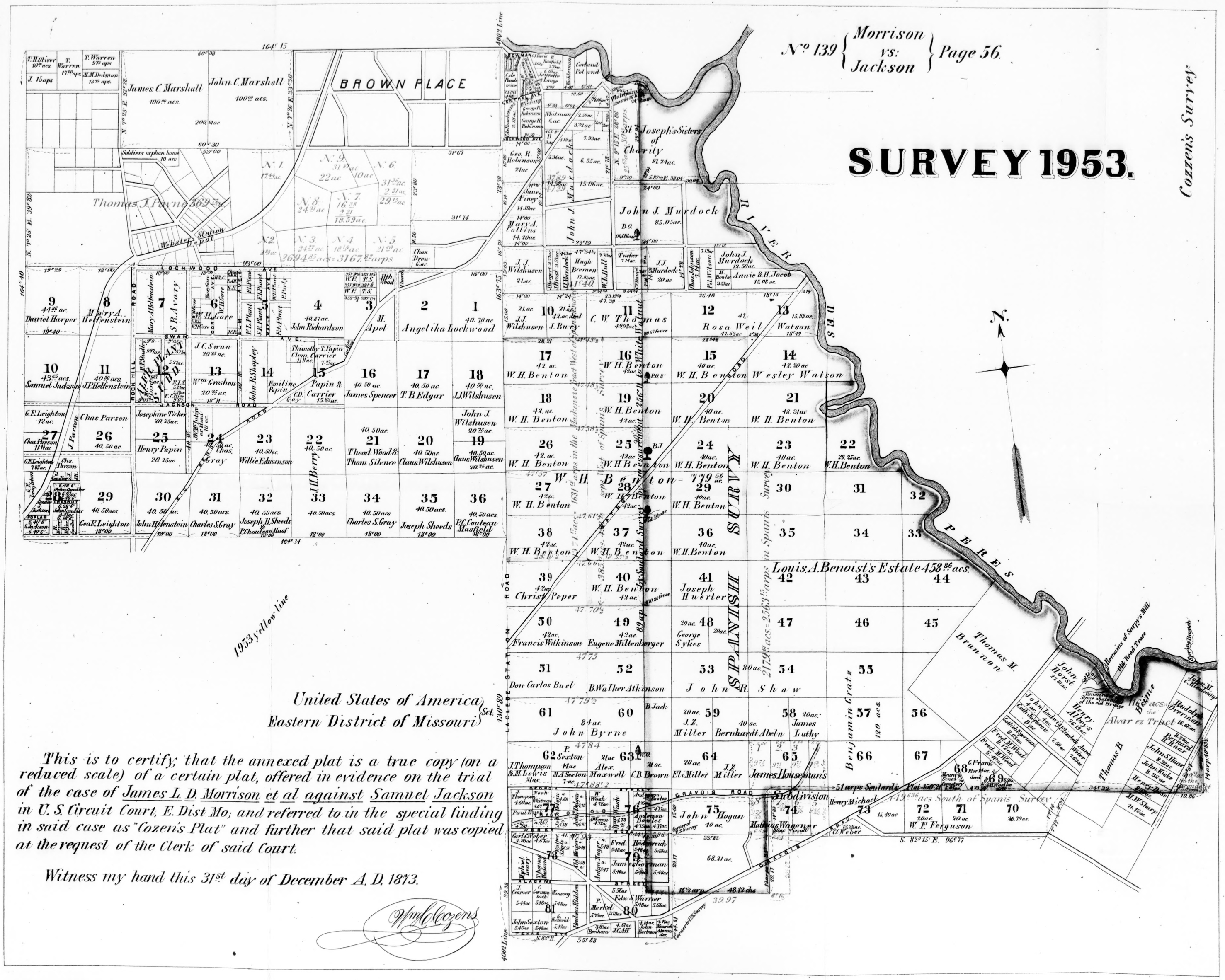
III.

The second section of the act of 1822 does not bar Rector's right, because the *location* which it is provided by that section shall be made within one year after the passage of the act, had already been made by the deputy surveyor upon and according to the application of the claimants.

MATT. H. CARPENTER,
For Rector.



Nº 139. Morrison vs. Jackson Page 24.
S. 83½° E. 161.50
Nº 1953.
Gregoire Sarpy
a league square
7056 arpens or 6002 50/100 acres.
N. 6½ E. 161.50
S. 8° 40' W. 32.50
S. 83° E. 38.50
Ts 44 and 45. N.R. 6.E.
N. 83½ W. 161.50
N. 6½ E. 127.50
S. 6½ W. 33.50
N. 83½ W. 54.60
N. 83½ W. 141.65
S. 36° W. 52 dams
True North
V. 8° East
40
80
Scale: 80 chains to an inch.



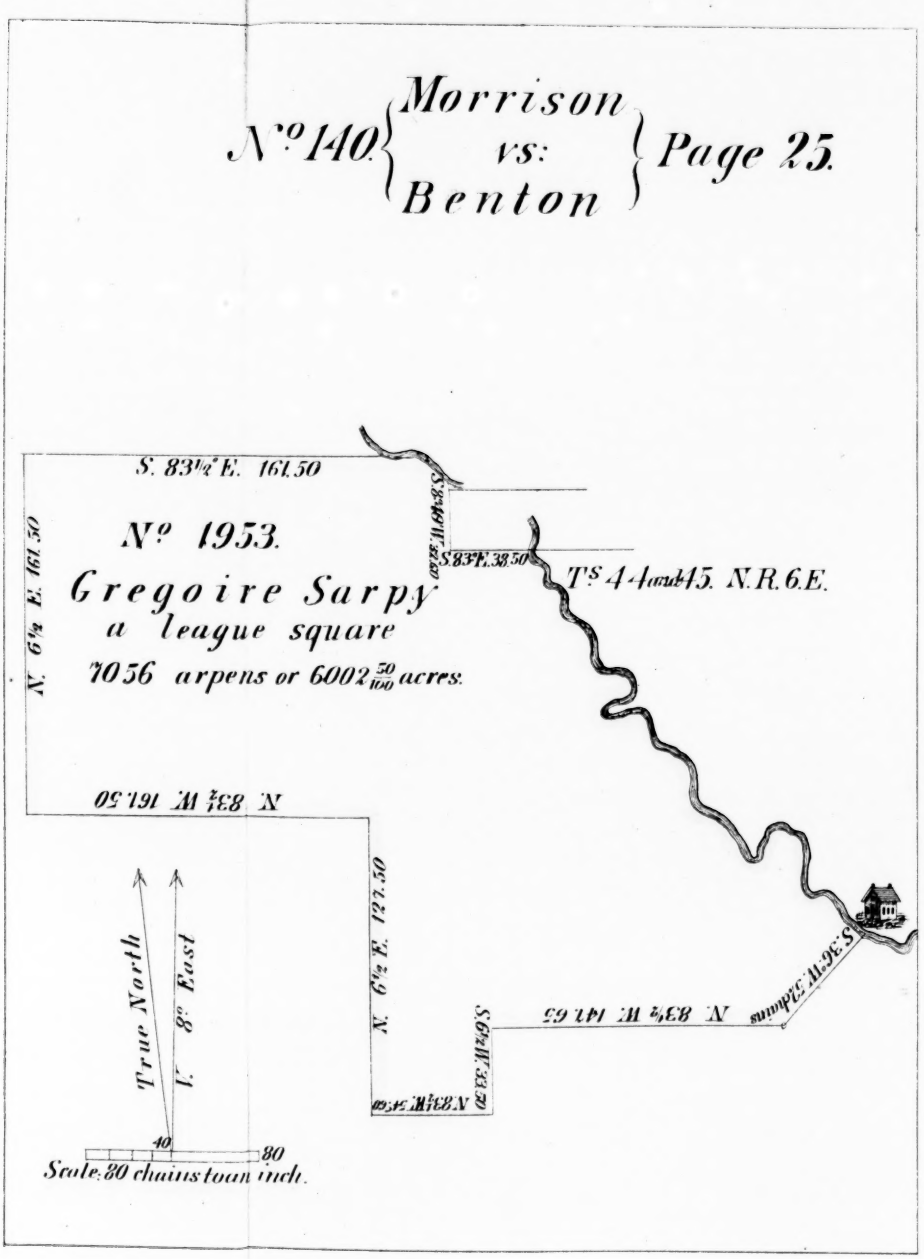
United States of America
Eastern District of Missouri } Sct.

This is to certify, that the annexed plat is a true copy (on a reduced scale) of a certain plat, offered in evidence on the trial of the case of James L. D. Morrison et al against Samuel Jackson in U. S. Circuit Court, E. Dist Mo; and referred to in the special finding in said case as "Cozen's Plat" and further that said plat was copied at the request of the Clerk of said Court.

Witness my hand this 31st day of December A. D. 1873.

Wm Cozens

N°140 { Morrison vs: Benton } Page 25.



No 140 { Morrison vs Benton } Page 51

No 140. { Morrison vs: Benton } Page 69

SURVEY 1953.

Cozens Survey.

1953 yellow Line

United States of America
Eastern District of Missouri } Sct.

This is to certify; that the annexed plat is a true copy (on a reduced scale) of a certain plat, offered in evidence on the trial of the case of James L. D. Morrison et al against William H. Benton, in U. S. Circuit Court, E. Dist. Mo; and referred to in the special finding in said case as "Cozen's Plat" and further that said plat was copied at the request of the Clerk of said Court.

Witness my hand this 31st day of December A. D. 1873

Wm Cozens

Spanish Survey on River Des Peres.
for Gregoire Sarpy.
Du Gregoire Sarpy. No 5.
Dn Chis Gratiot
Pierre
Moyer Blanc
Pierre
Piedra
Dn Chis Gratiot
Vacante N. 89 arps.
Pierre
Chene
Pierre
Pen Boisée
Terre Generalement
4002 arps.
Rio Des Peres
Dna Vinclad Camp
Moulin
Pierre
Chene
S 14 A.
Pierre
Chemin de Maramek
Chene
O. 51 A. 5 Pus.
Pierre
Chene
S. 12 A.
Pierre
Moyer O. 16 A 5 Pus.
Vacante
No 139 Morrison vs Jackson. Page 13.

Spanish Survey on River Des Peres.
for Gregoire Sarpy.
Du Gregoire Sarpy. No 5.
Dn Chis Gratiot
Pierre
Moyer Blanc
Pierre
Piedra
Dn Chis Gratiot
Vacante N. 89 arps.
Pierre
Chene
Pierre
Pen Boisée
Terre Generalement
4002 arps.
Rio Des Peres
Dna Vinclad Camp
Moulin
Pierre
Chene
S 14 A.
Pierre
Chemin de Maramek
Chene
O. 51 A. 5 Pus.
Pierre
Chene
S. 12 A.
Pierre
Moyer O. 16 A 5 Pus.
Vacante
No 140. Morrison vs Benton. Page 12.

Spanish Survey on River Des Peres.
for Gregoire Sarpy.
Du Gregoire Sarpy. No 5.
Dn Chis Gratiot
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Moyer Blanc
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Vacante N. 89 arps.
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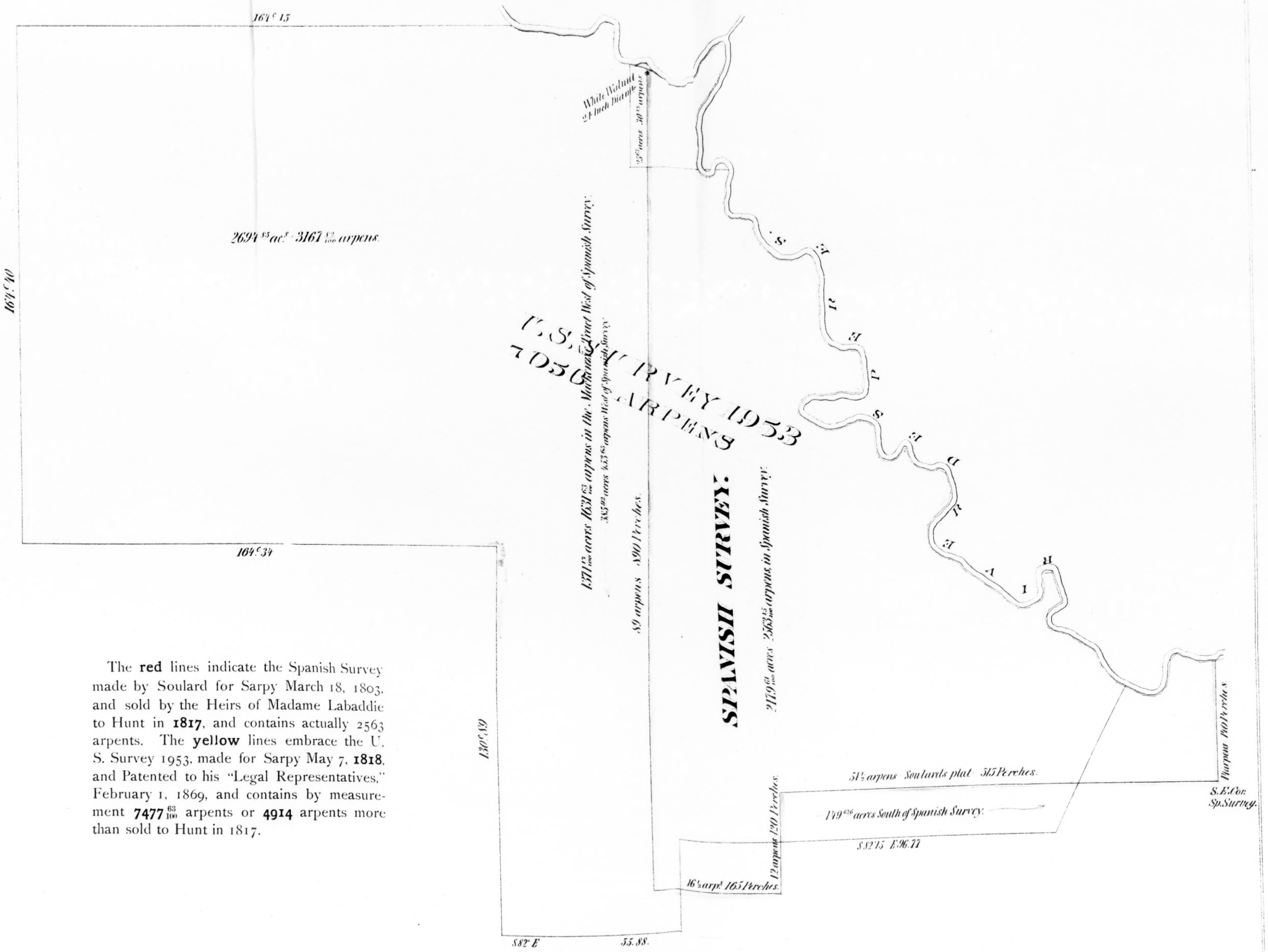
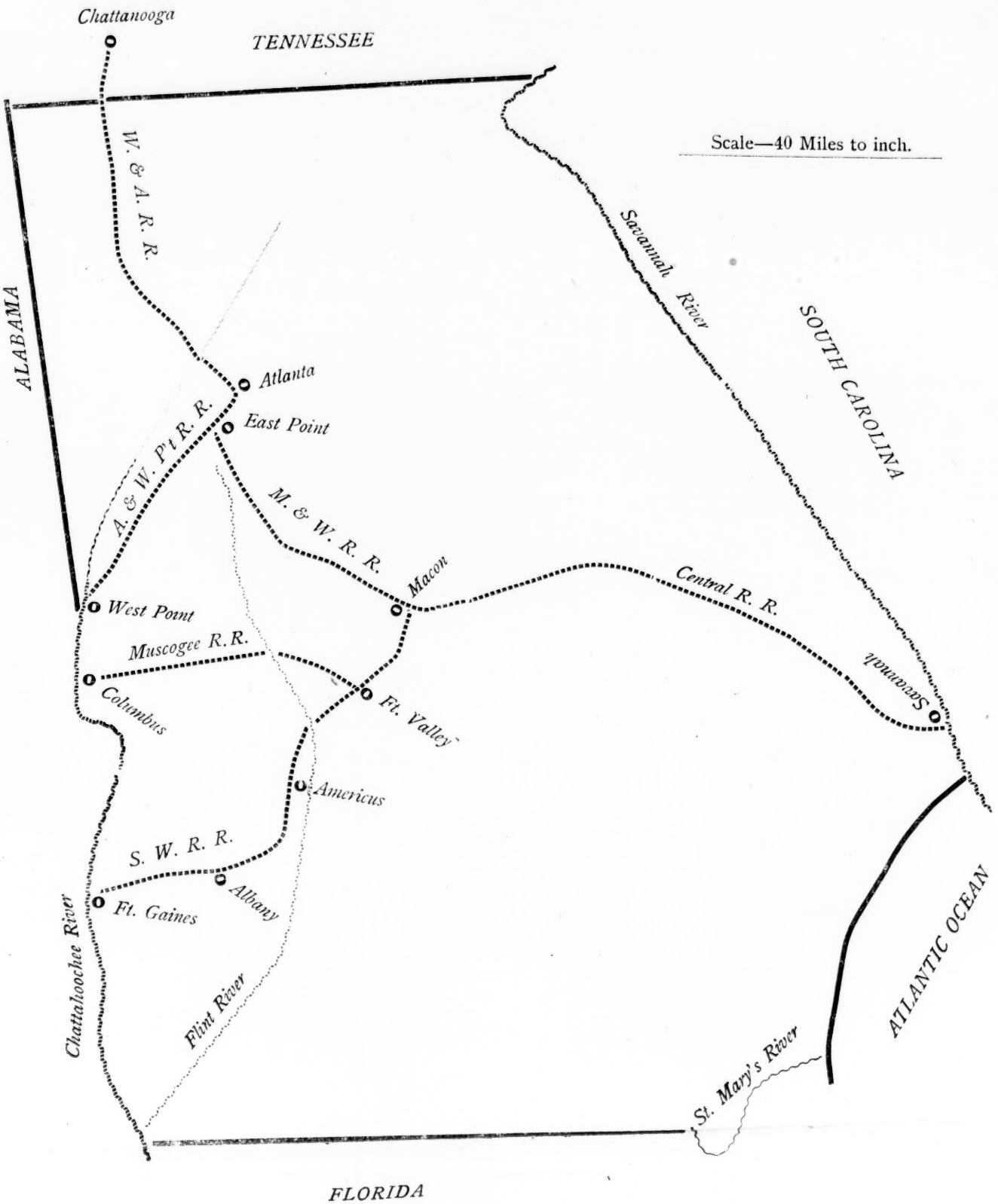
No 140. Morrison vs Benton. Page 12.



The **red** lines indicate the Spanish Survey made by Soulard for Sarpy March 18, 1803, and sold by the Heirs of Madame Labaddie to Hunt in **1817**, and contains actually 2563 arpents. The **yellow** lines embrace the U. S. Survey 1953, made for Sarpy May 7, **1818**, and Patented to his "Legal Representatives," February 1, 1869, and contains by measurement **7477** $\frac{63}{100}$ arpents or **4914** arpents more than sold to Hunt in 1817.


Chattanooga
TENNESSEE
Scale—40 Miles to inch.
W. & A. R. R.
ALABAMA
Savannah River
SOUTH CAROLINA
Atlanta
East Point
A. & W. Pt R. R.
M. & W. R. R.
Macon
Central R. R.
West Point
Muscogee R.R.
Savannah
Columbus
Ft. Valley
Americus
S. W. R. R.
Albany
Ft. Gaines
Chattahoochee River
Flint River
ATLANTIC OCEAN
St. Mary's River
FLORIDA

Parade Ground

Washington Race-Course

Sansoucci

Simons

Hopson

Northern Boundary of City

Bester

King

Grove

Romney

Pringle

Pine

State Arsenal

Meeting

S C R R

N E R R

Moultrie

Huger

Congress

Race

Mount

Payne

Nunan

Public Cemetery

Rutledge Av

Oak

Shepard

Line

Cooper

Bingle

Allway

Chesnut

Pine

Ashton

Norman

President

Site of Forte of 1812

Park

Ash

Rivers

Sewee

Rosedale

Laurel

Bogard

Percy

Coming

St Philips

Hodgers Al

Columbus

Mall

Drake

Bay

Aiken

America

Amherst

Cannon

Spring

Read

South

Mary

Judith

Wragg

Aiken's Park

Chapel

Depot

John

Wragg Sq

Hudson

Charlotte

Henrietta

Calhoun

Bee

U.S. Arsenal

Doughty

Palmetto

Mill

Ashley

Rutledge

Smith

Morris

Radcliff

Wagner

Vanderhorst

Thomas

Duncan

Lucas

Calhoun

Pond

West Point Mill

Ashley River

Mill Pond

Cooper River

Town Creek

Channel Line

Green

College

Pitt

Queen

George

Liberty

Beaufain

Wentworth

Gadsden

Tyrell

Bull

Montague

Boundary

Washington

Meeting

Market

Cumberland

Queen

Short

Broad

Tradd

Gibbs

Legare

Lamboll

South Battery

Atlantic

Water

Vendue Range

East Bay

Exchange

Church

Orange

King

Prince

Pinckney

Hasel

Pritchard

Concord

Guignard

Elliott

Smith's L.

Stoll's Al.

Longitude L.

Price Al.

Crosswell Al.

Magazine

Trumbull Ct.

Franklin

Legaux

Savage

New

Green Hall

Governor Rhett's House

Chisolm's Mill

Bird's old Shipyard

Dougherty Wf

Mordecai's Wf

White Point Gardens

Bathing House

Fort Battery

Bennett's Wf

Wando Fen Cos Wf

Palmetto Wf

Dry Dock Wf

Union Wf

Mt Pleasant Ferry Cos Wf

Custom House Wf

Central Wf

Accommodation Wf

Brown's Wf

Keer's Wf

N Atlantic Wf

Mobile Atlantic Wf

S Atlantic Wf

Boyce's N Wf

Boyce's S Wf

Adger's N Wf

Adger's S Wf

Vendue Horse Wf

N Com Wf

N Com Wf

Southern Wf

Beggum's Shipyard

Y E R R Co's Wf

Northern's Wf

Bass Cos Wf

Ferry Wf

Robb's Wf

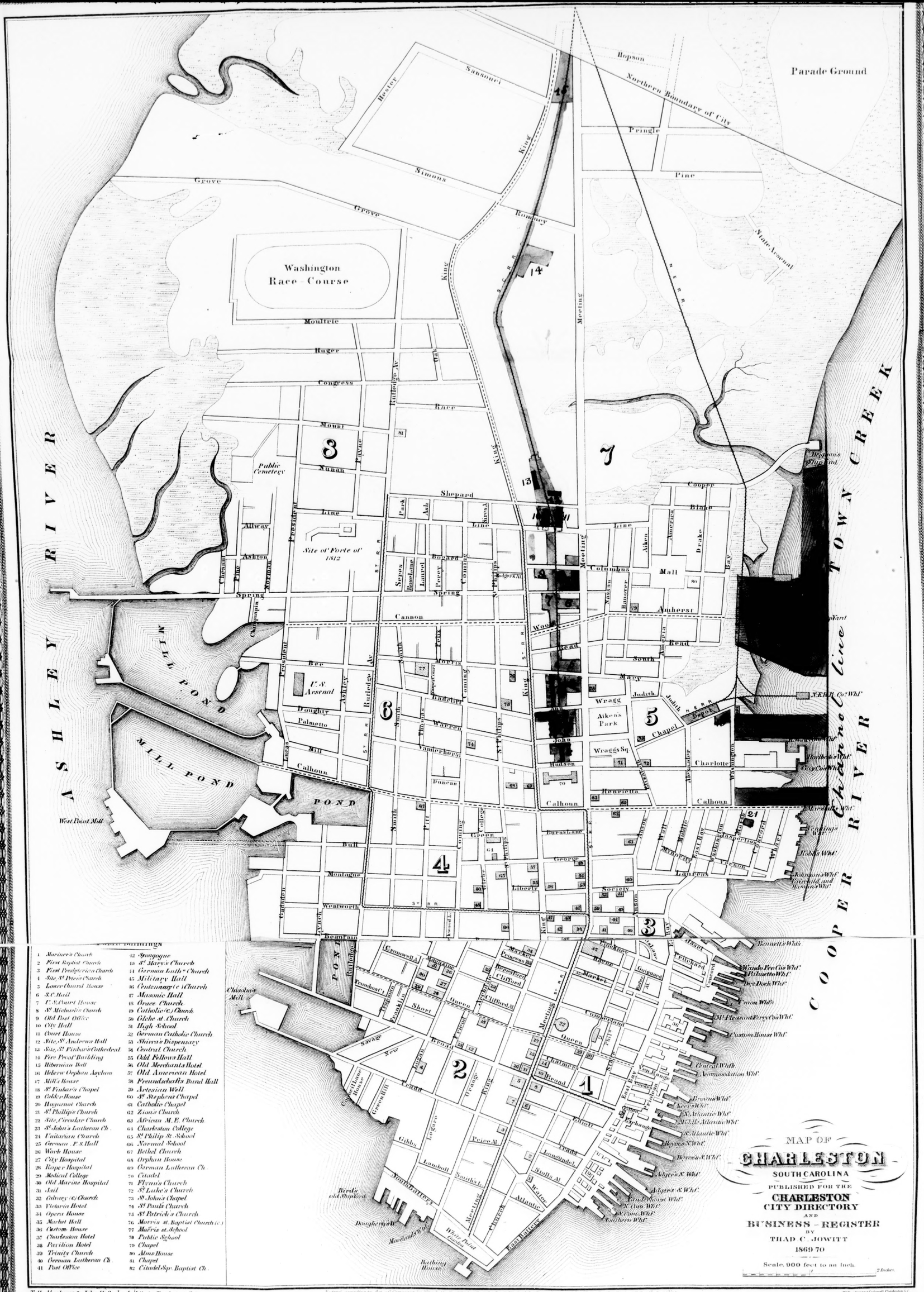
Johnson's Wf

Fairchild and Hamlin's Wf

1 Mariner's Church
2 First Baptist Church
3 First Presbyterian Church
4 Site St Peters Church
5 Lower Guard House
6 X C Hall
7 U S Court House
8 St Michael's Church
9 Old Post Office
10 City Hall
11 Court House
12 Site, St Andrews Hall
13 Site, St Finbars Cathedral
14 Fire Proof Building
15 Hibernian Hall
16 Hebrew Orphan Asylum
17 Mill's House
18 St Finbar's Chapel
19 Calder House
20 Huguenot Church
21 St Phillip's Church
22 Site, Circular Church
23 St John's Lutheran Ch.
24 Unitarian Church
25 German F S Hall
26 Work House
27 City Hospital
28 Roper Hospital
29 Medical College
30 Old Marine Hospital
31 Jail
32 Calvary (c) Church
33 Victoria Hotel
34 Opera House
35 Market Hall
36 Custom House
37 Charleston Hotel
38 Pavilion Hotel
39 Trinity Church
40 German Lutheran Ch.
41 Post Office
42 Synagogue
43 St Mary's Church
44 German Luth.n Church
45 Military Hall
46 Centenniary (c) Church
47 Masonic Hall
48 Grace Church
49 Catholic (c) Church
50 Glebe st Church
51 High School
52 German Catholic Church
53 Shiva's Dispensary
54 Central Church
55 Odd Fellows Hall
56 Old Merchants Hotel
57 Old American Hotel
58 Freundschaft's Band Hall
59 Artesian Well
60 St Stephens Chapel
61 Catholic Chapel
62 Zion's Church
63 African M.E. Church
64 Charleston College
65 St Philip St. School
66 Normal School
67 Bethel Church
68 Orphan House
69 German Lutheran Ch.
70 Citadel
71 Flynn's Church
72 St Luke's Church
73 St John's Chapel
74 St Pauls Church
75 St Patrick's Church
76 Morris st. Baptist Church (c)
77 Maffris st. School
78 Public School
79 Chapel
80 Alms House
81 Chapel
82 Citadel Sqr. Baptist Ch.

MAP OF
CHARLESTON
SOUTH CAROLINA
PUBLISHED FOR THE
CHARLESTON
CITY DIRECTORY
AND
BUSINESS-REGISTER
BY
THAD C. JOWITT
1869 70

Scale, 900 feet to an Inch.


Parade Ground
Northern Boundary of City
Washington Race Course
Public Cemetery
Site of Forte of 1812
U.S. Arsenal
State Arsenal
Aikens Park
Wraggs Sq
Bathing House
Ashley River
Mill Pond
Cooper River
Town Creek
Charleston Harbor
Meeting
King
Calhoun
Broad
Cannon
Spring
Shepard
Mount
Race
Congress
Moultrie
Huger
Grove
Simons
Sanssouci
Pringle
Pine
Bee
Doughty
Palmetto
Mill
Bull
Montagne
Wentworth
Beaufain
Duncan
Green
Burns Lane
George
Liberty
Society
Henrietta
Charlotte
Hutson
Wragg
Judith
Mary
South
Read
Amherst
Mall
Columbus
Cooper
Line
Shepard
Nunan
Allway
Ashton
Pine
Chisolm
Zoyland
Preseident
Rutledge Av
Oak
Park
Ash
Laurel
Pegay
Rosalaine
Screen
Bogard
Courtenay
St Philips
Anson
Middle
West
Church
Vernon
Langdon
Washington
Alexander
Amen Corner
Aiken
American
Drake
Bay
Hanover
Nassau
Elliott
Smith
Felix
Abbers
Coming
Haddrill
Wragen
Vanderhorst
Colleton
Pitt
Lucas
Calhoun
Gadsden
Lynch
Kinloch
Cumberland
Queen
Short
Broad
Tradd
Elliott
Orange
Legare
Gibbs
Church
Meeting
Atlantic
Water
Exchange
Vendue Range
East Bay
Longitude L
Stoll's M
Price M
Smith's L
Lamboll
Tradd
Elliott
Broad
Queen
Short
Cumberland
Market
Guignard
Bedon's Alley
Chalmers
Beresford
Clifford
Princess
Cromwell
Magazine
Trumbos Ct
Franklin
Savage
New
Gervais
Green
Orange
Church
Meeting
Atlantic
Water
Exchange
Vendue Range
East Bay
Concord
Laurens
Vernon
Middle
West
Church
Anson